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The Authoritative Reference on Congress

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SAM RAYBURN DIES AFTER LONGEST HOUSE SERVICE IN HISTORY

Speaker of the House Sam Rayburn (D Texas 1913-1961) died Nov. 16 at 6:20 a.m. at the Risser Hospital, Bonham, Texas, of paralysis of the lungs, a complication arising from incurable cancer. He was 79.

At his death, Rayburn had served 48 years, 258 days as a Representative (continuous service), and 17 years, 62 days as Speaker (twice interrupted). He served longer in the House than any other man, and more than doubled the previous record for length of service as Speaker (held by Henry Clay). (See p. 1847)

Senate President pro tempore Carl Hayden (D Ariz.), 84, thus became third in line of succession to the Presidency until another Speaker is elected.

Rayburn was born on Jan. 6, 1882, near Kingston, Tenn. His family moved to Fannin County, Texas, when he was five. He lived on a farm near Bonham, and represented the 4th Texas Congressional District. He was first elected to Congress in 1912, taking his seat March 4, 1913. Following the death of Speaker William B. Bankhead, he was first elected Speaker Sept. 16, 1940, after serving four years as Democratic Majority Leader, and was re-elected to the Chair in 1941, 1943, 1945, 1949, 1951, 1955, 1957, 1959, and 1961. Republicans controlled the House in 1947-48 and 1953-54.

Rayburn was married to Miss Metze Jones of Valley View, Texas on Oct. 15, 1927. The marriage was dissolved in 1928. She is now Mrs. Jeff Neely of Amarillo, Texas. (For biography of Rayburn see p. 1724. For biographies of possible successors, see p. 1702.)

Rayburn left Washington for Bonham in August to recuperate from lumbago. Shortly after he entered Baylor Hospital, Dallas, Oct. 2 for a checkup, his ailment was diagnosed as cancer. He weakened rapidly -- his weight dropped from about 176 to about 120 during the months before his death -- and was taken from Baylor Hospital to Bonham on Oct. 31.

Rayburn's body lay in state at the Sam Rayburn Memorial Library in Bonham from Nov. 17 to Nov. 18. His funeral was Nov. 18. Services were conducted by Elder H.C. Ball, minister of the Primitive Baptist Church of Tioga, Texas, which Rayburn joined in 1956.

In the House chamber, the Speaker's Chair was draped in black and flowers were placed on the rostrum for the three days of mourning.

Comments on Rayburn's Death

President Kennedy -- "A strong defender of constitutional responsibilities of the Congress, he had an instinctive understanding of the American system and was a loyal counselor and friend of Presidents of both parties on the great matters which affected our national interest and security. I had singular opportunity as a young Congressman, and more recently as President, to appreciate his temperament and his character. Both were bedded in rock and remained unchanged by circumstances."

Vice President Johnson -- "The good people of the world have lost a companion and an ally. He was always there when he was needed. His voice and his judgment were heard and respected."

Senate Majority Leader Mike Mansfield (D Mont.) -- Rayburn was "as close to being indispensable as any man in government." "I feel that I have lost both a father and a brother, but I know the nation's loss is greater still. He was the last of the old frontiersmen, and his place will be difficult to fill."

House Majority Leader and Speaker pro tempore John W. McCormack (D Mass.) -- "The Speaker was one of the great Americans of all time."

Senate Minority Leader Everett M. Dirksen (R Ill.) -- "As a Speaker he was impeccably fair and his respect for the rights of the minority party was a household word."

House Minority Leader Charles A. Halleck (R Ind.) -- "Sam Rayburn was one of the great and good men of our time. In these critical times his passing is a great loss to the Congress and to the country."

Former Speaker of the House Joseph W. Martin Jr. (R Mass.) -- "Few men have had a greater influence in recent years on our national life than Sam Rayburn. He was an outstanding legislator ...and a tower of strength for sound representative government.... His death at this crucial period is a calamity. His uncanny ability to keep the Democrats in Congress working in unison will be sorely missed. His death comes as a blow to President Kennedy and the country in these critical months ahead. Personally, I mourn the loss of an intimate friend and associate of many years."

Former President Dwight D. Eisenhower -- "Speaker Rayburn's legislative leadership was unmatched. It will long inspire all who seek important positions in public service. On international affairs he was a tower of strength for four Presidents. An outspoken partisan, I found him also equally bipartisan in all matters affecting the security of our country. To know Mr. Sam was to admire and like him."

Former President Harry S. Truman -- "I'm just as sorry as I can be to hear of Sam's passing. He was one of the great men of our time, one of our greatest statesmen." On a visit to Rayburn Oct. 13, Truman said "Sam Rayburn means everything to me that one man can mean to another."

Former Vice President Richard M. Nixon -- "Sam Rayburn was one of the most effective political leaders the nation has produced."

The Speaker of the House of Representatives

"THE SPEAKER has but one Superior and no peer." So said Thomas B. Reed (R Maine 1877-1899; Speaker 1889-1891, 1895-1899). In his day the Speaker was an autocrat, or a "czar", as Reed and Joseph G. Cannon (R Ill. 1873-1891, 1893-1913, 1915-1923; Speaker 1903-1911) were popularly called. The "bloodless revolution" of 1910 overthrew the "czar," but his successors have wielded almost as much power. This fact sheet discusses the role of the Speaker and how it has developed over the years since the House of Representatives first met in 1789.

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Formal Status

The Constitution of the United States provides that "The House of Representatives shall chuse their Speaker." The Speaker is traditionally a Member of the House (although he need not be) and traditionally a leader of the majority party, or of a coalition. Hence the post of Speaker is two-fold, parliamentary and political. The Speaker can use his parliamentary powers, at his discretion, to advance the political and legislative aims of his party.

He is the most powerful individual in the House of Representatives. Indeed, his has been called the second most powerful elective office in the nation. Since 1947, when Congress amended the 1886 Presidential Succession law (PL 80-199), the Speaker has been second in the line of succession to the Presidency (following the Vice President) in the event that the President should die in office.

He draws the same salary as the Vice President, $35,000 a year plus $10,000 a year for expenses, and he has the use of a car and driver. In addition to the office space to which he is entitled as a Member, the Speaker has a large office across the corridor from the Hall of the House, known as "The Speaker's Rooms." (The Speaker controls the House side of the Capitol, and has the disposition of the unappropriated rooms there.)

Duties & Powers

Parliamentary

The parliamentary duties and powers of the Speaker are set out in the Rules of the House; the political powers of the Speaker depend upon his personality and ability, enhanced by the position to which he has been elected by his party.

The Rules state that the Speaker shall preside at all sessions of the House, preserve order and decorum, have general control of the Hall of the House, sign all acts, addresses, joint resolutions, writs, warrants, and subpenas of, "or issued by order of," the House, decide all questions of order as they arise (subject to appeal), put all questions, vote when his vote would be decisive (he may, but is not required to, vote on other occasions), and name Speakers Pro Tempore for a period not to exceed three days, or, in case of illness, ten days. (The House may elect a Speaker Pro Tempore if he does not appoint one, or if his absence exceeds the specified interval.)

In addition, the Speaker may appoint chairmen of the Committee of the Whole, members of select and investigating committees, and House conferees on a bill sent to conference with the Senate. He may also appoint the House Members on joint committees and on committees or commissions created by law. In practice, however, minority party wishes, seniority, and certain rules of thumb govern these appointments, rather than the Speaker's will.

The Speaker appoints the Parliamentarian, who, as the Speaker's deputy, refers all bills to committees.

Of the duties listed above, the one requiring the most tact and skill in the 437-Member House, is keeping order among the complications and confusions which can arise on the floor. The power which gives the Speaker the largest political advantage is the right of recognition, reinforced by the right of the Speaker to ask, "For what purpose does the Gentleman rise?", before granting recognition. The Speaker can use this power to favor his party or certain individuals, and to block proposals which he does not favor.

Political

The Speaker's political power is based upon his personality and influence on the Members of his party (and sometimes the opposition party) in the House. It is enhanced by the dignity of his office and his influence on the course of legislation.

Because of this power, he can guide party decisions on legislative policy and assignments to vacant committee posts, nominally made by the caucus-selected Committee on Committees (Republican) or the party's members of the Ways and Means Committee (Democratic), on which although the Speaker does not sit, he has great influence.

The power to influence committee assignments is especially important to the Speaker for it often is at such a time that he may accommodate a Member and pick up his first "I.O.U." for future use.

The Speaker also takes the lead in deciding which bill to bring up on the floor next, and which committees to prod into action. Once a bill has been reported by the Rules Committee, it is ready for House action. The Speaker has the power to allow the bill to be brought up, and the discretion to decide when to do so.

The Speaker retains his rights as a Member, and may debate and vote on all issues if he wants. He appoints another Member to the Chair when he participates in debate. Some Speakers in the past have exercised these rights frequently, but recent Speakers -- especially Sam Rayburn -- have preferred to take a part in debate only when a close vote was expected on an important issue and to vote only to break a tie. So it has become an occasion of note when a Speaker steps into the well of the House.

Power Diminished

Yet the Speaker is not as powerful, technically, as he once was. He cannot now, as he once could, appoint the membership of the standing committees of the House, or directly control the Committee on Rules as its chairman, or arbitrarily refuse recognition to any Member.

These powers, which gave a Speaker dictatorial control over the legislative program and the careers of Members, were gradually added to the office over the first hundred years of the House of Representatives until, as Rep. Clarence Cannon (D Mo.) says in the preface to Cannon's Precedents of the House of Representatives, "So autocratic was the power of the speakership that /some/ contemporary historians...considered the Speaker as 'more powerful than the President of the United States'."

BACKGROUND: 1789-1911

The office of Speaker is modeled after the Speaker of the English House of Commons, but from its inception in the House of Representatives it has developed along a divergent line. The Speaker of the House of Commons is chosen for his promise of impartiality, and takes no part in the program of his party, or in debate, giving up his rights as a member. Once he is chosen he may be returned to the chair as long as he performs the duties fairly, and as long as he continues to be re-elected, no matter which party is in power. (It is a tradition that the Speaker of the House of Commons is not opposed in his campaigns for re-election to Parliament. The present Speaker of the House of Commons is Sir Harry Hylton-Fostor, who was elected to the Chair as a Conservative in 1959. His predecessor was Mr. W.S. Morrison, also Conservative, who served from 1951 to 1959. On his retirement, he took the title of Lord Dunrossil, and was appointed Governor-General of Australia. It is a tradition that the Speaker of the House of Commons is elevated to the peerage when he retires.)

By contrast, selection of the Speaker of the House of Representatives has always been considered the prerogative of the majority party, when a clear majority of one party exists. A few Speakers have been elected by coalitions.

The seventh Speaker, Henry Clay (Whig Ky.; Rep. and Speaker 1811-1814, 1815-1820, 1823-1825), who made the first significant use of the powers of the Speaker for party aims, insisted that the Speaker retains his rights as a Member, and frequently took part in debate, while a substitute sat in his place in the chair. Clay also used the Member's right to vote frequently, in violation of a rule which barred the Speaker from voting except when his vote would be decisive. (Two previous Speakers had interpreted this rule broadly, but Clay clearly broke it.) Although the rule was not changed to its present form -- allowing the Speaker to vote, and requiring him to vote when his vote would be decisive -- until 1850, Clay's precedent was frequently followed in the intervening years.[1]

The partisan concept of the Speakership was further developed by Andrew Stevenson (D Va. 1821-1834; Speaker 1827-1834) and James K. Polk (D Tenn. 1825-1839; Speaker 1835-1839), noted for their support of President Andrew Jackson to whose influence both probably owed election to the Chair.[2] However, two Speakers of the same period tried to restore impartiality to the rulings of the Chair in an attempt to distinguish clearly between the judicial nature of the Speaker's parliamentary role and the factional nature of his leadership role.[3] These were Robert M.T. Hunter (D Va. 1837-1843, 1845-1847; Speaker 1839-1841) and Robert C. Winthrop (Whig Mass. 1840-1842, 1842-1850; Speaker 1847-1849). Hunter at 30 was the youngest man ever elected Speaker. He was characterized by John Quincy Adams (Whig Mass. 1831-1848; Senator 1803-1808; President 1825-1829) as "an amiable, good-hearted, weak-headed young man, prematurely hoisted into a place for which he is not fit."[4]

After the Civil War, a series of Speakers from James G. Blaine (R Maine 1863-1876; Speaker 1869-1875) to Joseph G. Cannon continued the development of the Speaker's right to use his power to aid the majority until a reaction in the 61st Congress (1909-1911) deprived the Speaker of his two most potent tools, appointment of committees and control of the Rules Committee. The Speaker's right of recognition was curtailed only slightly, and remains a source of power. But it is not as effective a disciplinary tool as it once was.

Appointment of Committees

The first rule established by the House with respect to committee appointments, April 7, 1789, reserved to the House the choice of membership on all committees of more than three members. This gave way, in 1790, to a rule giving this power to the Speaker, with the reservation that the House might direct otherwise in special cases. Finally, however, the Speaker was given the right to appoint all of the standing committees. (The principle that the committees were to be bi-partisan but weighted in favor of the majority and its policies was established early.)

In the First Congress, Speaker Muhlenberg appointed Members who were either pro-slavery or neutral to a committee to study the slave trade. The most notable early use of this power was Henry Clay's appointment of advocates of a war with England to committees in 1811. Even Robert M. T. Hunter, who was noted for his impartial rulings in the Chair, was firmly convinced that the Speaker should be partisan in appointing committees, to assure that his program would reach the floor.

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[1] DeAlva Stanwood Alexander, *History and Procedure of the House of Representatives*, Boston, 1916, p. 53.

[2] Ibid, p. 318, 375.

[3] Herbert Bruce Fuller, *The Speaker of the House*, Boston, 1909.

[4] Alexander, p. 18.

Certain principles governed the choices of the Speaker in appointing members to committees. Generally the wishes of the minority leadership were respected. Generally, seniority, length of service on the committee, and factors such as geographical distribution and party regularity were considered. But the Speaker was not bound to respect this formula, and there were cases where none of the principles outweighed the Speaker's wishes. Despite complaints and attempts to change the rule, this system remained in force until 1911, when the House again reserved the right to elect Members to all standing committees.

Control of the Rules

The keystone of the Speaker's pre-eminence in the House after the Civil War was his control of the Committee on Rules, which could authorize suspension of the rules by a majority vote, limit debate, or block consideration of a bill entirely. The Speaker was the chairman of the Committee, and appointed his men to it. Thus he could almost singlehandedly expedite legislation he favored, and kill legislation he opposed. In addition he could protect his position of strength, because the Rules Committee passed on all propositions to change the rules. (When the rules were changed in 1910, an appeal to the House to overrule the Speaker was the method used to get the motion to the floor. See below.)

The first Rules Committee was appointed by the House in 1789 as a select committee to establish the rules of the House. The committee met only occasionally and was little needed at first. Indeed, no Rules Committee was appointed in the 15th, 16th, 18th, 19th, and 21st Congresses.

Appointed by Speaker

In 1790, the Speaker was given the right to appoint the Rules Committee, along with all other committees. In 1841, the Rules Committee, although still a select committee, was authorized to "report at all times." A ruling the same year established that only a majority vote of the House was needed to adopt a Rules Committee report suspending the rules of the House. This cleared the way for a later practice, dating from 1883, of reporting "special orders" which are, in effect, suspensions of the rules in order to expedite legislation. Ordinary motions to suspend the rules require a two-thirds majority. (1960 Weekly Report p. 1993)

At first, the Speaker was not a member of the Rules Committee. On June 14, 1858, however, a resolution was adopted authorizing a Committee on Rules, of which the Speaker was to be chairman *ex officio*, to revise the rules and report at the next session, thus setting a precedent for the Speaker's appointment of himself to the Committee.

For twenty years the Rules Committee made little use of its latent power, merely reporting needed changes in the rules, and occasionally suspending them. In 1880 it was made a standing Committee with a membership of five, three from the majority and two from the minority. Speaker Randall, who was chairman of the first standing Committee on Rules (which reported the rules revision of 1880), added to the Committee's power by requiring that it pass on all propositions to change the rules.

Rise of Rules Committee

In 1883, Speaker John G. Carlisle (D Ky. 1877-1890; Speaker 1883-1889) adopted the practice of appointing the chairmen of Ways and Means and Appropriations, the two most powerful committees, to the Rules Committee.

Speakers of the House

Frederick A.C. Muhlenberg (party unknown, Pa.)	1789-1791, 1793-1795
Jonathan Trumbull (Federalist, Conn.)	1791-1793
Jonathan Dayton (Federalist, N.J.)	1795-1799
Theodore Sedgwick (Federalist, Mass.)	1799-1801
Nathaniel Macon (D N.C.)	1801-1807
Joseph B. Varnum (party unknown, Mass.)	1807-1811
Henry Clay (Whig, Ky.)	1811-1814, 1815-1820, 1823-1825
Langdon Cheves (D S.C.)	1814-1815
John W. Taylor (D N.Y.)	1820-1821, 1825-1827
Philip P. Barbour (D Va.)	1821-1823
Andrew Stevenson (D Va.)	1827-1834
John Bell (Whig, Tenn.)	1834-1835
James K. Polk (D Tenn.)	1835-1839
Robert M.T. Hunter (D Va.)	1839-1841
John White (Whig, Ky.)	1841-1843
John W. Jones (D Va.)	1843-1845
John W. Davis (D Ind.)	1845-1847
Robert C. Winthrop (Whig, Mass.)	1847-1849
Howell Cobb (D Ga.)	1849-1851
Linn Boyd (D Ga.)	1851-1855
Nathaniel P. Banks (American Party*, Mass.)	1855-1857
James L. Orr (D** S.C.)	1857-1859
William Pennington (Whig, N.J.)	1859-1861
Galusha A. Grow (R Pa.)	1861-1863
Schuyler Colfax (R Ind.)	1863-1869
Theodore M. Pomeroy (R N.Y.)	March 3, 1869
James G. Blaine (R Maine)	1869-1875
Michael C. Kerr (D Ind.)	1875-1876
Samuel J. Randall (D Pa.)	1876-1881
J. Warren Keifer (R Ohio)	1881-1883
John G. Carlisle (D Ky.)	1883-1889
Thomas B. Reed (R Maine)	1889-1891, 1895-1899
Charles F. Crisp (D Ga.)	1891-1895
David B. Henderson (R Iowa)	1899-1903
Joseph G. Cannon (R Ill.)	1903-1911
Champ Clark (D Mo.)	1911-1919
Frederick H. Gillett (R Mass.)	1919-1925
Nicholas Longworth (R Ohio)	1925-1931
John N. Garner (D Texas)	1931-1933
Henry T. Rainey (D Ill.)	1933-1935
Joseph W. Byrns (D Tenn.)	1935-1936
William B. Bankhead (D Ala.)	1936-1940
Sam Rayburn (D Texas)	1940-1947, 1949-1953, 1955-1961
Joseph W. Martin Jr. (R Mass.)	1947-1949, 1953-1955

Three Speakers were elected during their first terms in Congress -- Muhlenberg (the first Speaker), Clay (who never served in the House except as Speaker), and Pennington. Fourteen Speakers had been Speakers of their state assemblies before coming to Congress.

Rayburn with 14½ terms in Congress, had the longest service of any Speaker in the House prior to becoming Speaker. The average prior service in the House for Speakers in the last 100 years was slightly more than 15 years; the average prior service for Speakers since 1901 was a little more than 23 years.

**Banks was elected to the 33rd Congress (1853) as a Coalition Democrat, to the 34th Congress (1855) as a candidate of the American Party, and to the 35th Congress (1857) as a Republican.*

***Orr was later elected Governor of South Carolina as a Republican (1866).*

Although this was not the invariable practice of later Speakers, it points to the growing awareness of the majority that the Rules Committee was a powerful tool. During the 48th and 49th Congresses (1883-1887), Carlisle had the Rules Committee report several suspensions of the rules, following an infrequently used precedent. During the 49th Congress, he extended the jurisdiction of the Rules Committee to the order of business, once reporting a rule that established the order of business for 16 legislative days.[5]

In 1891, the Committee was given the right to report at any time and have its report considered without the intervention of any motion except one to adjourn, and in 1893, the Committee was given the right to sit during sessions of the House. Both of these privileges were established under Speaker Charles F. Crisp (D Ga. 1883-1896; Speaker 1891-1895). Thus the Committee could convene briefly, report a rule, and expedite a piece of legislation.

In 1882, under Speaker J. Warren Keifer (R Ohio, 1877-1885, 1905-1911; Speaker 1881-1883), the House adopted a resolution introduced by Reed, then a member of the Rules Committee, based on an earlier ruling by Speaker Blaine, which in effect blocked "dilatory" motions for roll calls or adjournment. In addition, Reed while Speaker, on Jan. 30, 1890, instructed the clerk to count as "present," for the purpose of establishing a quorum, all Members who were present but refused to vote. This practice was reconfirmed by Crisp in 1894, under pressure from Reed, who as minority leader deliberately provoked the ruling by holding up proceedings on the floor for nearly a month.

The effect of these rulings, added to the rulings of 1891 and 1893 reported above, was to curb filibuster, and add to the increasingly dominant position of the majority, and consequently of the Speaker, by outlawing the obstructionist tactics of the minority.

Recognition

The Speaker was originally given the discretionary right to choose which Member to recognize when two should rise at the same time. What was thus the simple right to indicate the Member allowed to speak soon in practice became the right of the Speaker to recognize only those Members whom he wished to recognize. Speakers with increasing frequency tended to see only those Members whose purpose suited theirs, regardless of the order in which the Members rose. Linn Boyd (D Ky. 1835-1837, 1839-1855; Speaker 1851-1852) stated while in the Chair that "the rules confer authority on the Chair to name the Member entitled to the floor."

The arbitrariness of this decision did not, however, block questions of privilege or privileged motions and reports. In addition, chairmen of committees or their proxies were granted ready recognition, and so, usually, was the minority leader. But Speaker Blaine adopted the practice of withholding recognition until he had been consulted, thus gaining the power of censoring motions and reports.

Speaker Reed established the precedent of asking "For what purpose does the Gentleman rise?" and then refusing recognition if he so chose.

For years, a Member had the right of appeal if refused recognition, and could ask the House to overrule the Speaker. But in February 1881, Speaker Samuel J. Randall (D Pa. 1863-1890; Speaker 1876-1881) ruled that the right of recognition was just as absolute in the Chair "as the judgment of the Supreme Court is absolute in its interpretation of the law," and succeeding Speakers have upheld him.

A rule establishing a calendar for the consideration of "bills of a private character" in the Committee of the Whole House existed as early as 1839. This permitted Members to bring up private bills without having to get the recognition of the Speaker. But aside from the courtesies granted certain motions and Members this was the only breach in the Speaker's power of "non-recognition," as P.D. Hasbrouck[6] called it, until 1909, when Calendar Wednesday and the Consent Calendar were established (see below).

REVOLUTION OF 1910

Under Reed and Crisp the powers of the Speaker were thus developed and reinforced to their greatest strength. The Speaker was given his power by the majority party, and as long as it continued its support, his policies could not be effectively opposed. Because he could, through the Rules Committee, suspend the rules almost at will, and, through the control which he had over committees, direct the legislative program almost at will, it became practically impossible to water down or block legislation that had his support, or to have considered by the House legislation of any sort which did not have his support. In addition, the Speaker could discourage rebellion through his control of Members' committee assignments and rights of recognition.

These powers made a dictatorial and heavy-handed rule of the House possible. Speaker Joseph G. Cannon, who ruled from 1903 to 1911, used them to maintain conservative elements in control. His arbitrary tactics were legendary; it is said he once ordered a third roll-call on a motion, in violation of precedent and rule limiting the number to two. When asked by the Democratic side of the House, "Why does the Chair call the roll a third time?", he is reported to have answered "The Chair wishes to inform the Gentlemen that the Chair is hoping a few more Republicans will come in."[7]

His absolute control over legislation and legislators' careers caused a number of "insurgent" liberal Republicans, led by Rep. Henry A. Cooper (R Wis. 1893-1919, 1921-1931) and Rep. George W. Norris (R Neb. 1903-1913; Senator, 1913-1943), to join forces with the Democratic minority in an attempt to revise the rules and deprive the Speaker of power.

The opening shot of the "revolution of 1910" was fired on the first day of the 61st Congress, March 15, 1909, following the election of Cannon as Speaker for the fourth time. The vote for Cannon was 204 to 166 for the Democratic leader Champ Clark (Mo. 1893-1895, 1897-1921; Speaker 1911-1919). Twelve Members voted for various other candidates, mostly "insurgent" Republicans. Most of the insurgents, of whom there were about 28, voted for Cannon.

Rep. John Dalzell (R Pa. 1887-1913) moved to carry over the rules of the 60th Congress, and then moved the

[5] Alexander, p. 205.

[6] P.D. Hasbrouck, *Party Government in The House of Representatives*, New York, 1927

[7] Fuller, p. 263. On another occasion, Fuller says, he stated after a voice vote, "The ayes make the most noise, but the noes have it."

previous question, cutting off debate on the rules in order to block amendments. Clark demanded a roll-call vote on the motion of the previous question, and the result was yeas 193, nays 189. On this vote the Democrats (opposed) picked up 30 votes that had gone to Cannon or one of the insurgent candidates, but lost seven Democratic votes to the Republicans.

Then Dalzell's motion to adopt the rules was put. The vote switched, yeas 189, nays 193. The additional votes for the Democrats (opposed) came from 4 Democrats who had voted with the Republican majority on the last vote.

At this point, Clark introduced an amendment to the rules limiting the number of committees which the Speaker might appoint to five (Ways and Means, Printing, Accounts, Mileage, and Enrolled Bills), and expanding the Rules Committee to 15 (from 5), to be elected by the House. The Speaker's name was not on the list of Rules members which he introduced. Then Clark moved the previous question, and was defeated, yeas 180, nays 203. On this vote, 28 insurgents stayed with the Democrats, but Rules Committee member John J. Fitzgerald (D.N.Y. 1899-1917), generally conceded to be one of the ablest parliamentarians in the House, was opposed to the change, and he led a total of 15 Democratic votes (including the 7 which went to the Republicans on the second vote) to the Speaker's aid.

Then Fitzgerald offered a substitute for the Clark amendment which provided for setting up a Calendar Wednesday and a Consent Calendar (see below). In debate Clark accused the President (William Howard Taft) and the Cabinet of pressuring against a rules change, and told the House that while the old rules were in effect the Speaker, who otherwise represented one vote, would outweigh the whole House. But the Fitzgerald motion carried, 211-173.

Although forced to concede two liberalizations of the rules in this vote, the Speaker's forces won out, and it appeared that he would be able to control the House despite the large insurgent defection, because he had the support of a few Democratic members who formed a balance of power in his favor.

Calendar Wednesday

Calendar Wednesday set aside Wednesday for the calling of the roll of committees in alphabetical order, so that the committee chairmen or their deputies might present legislation for the consideration of the House. It thus made it possible to by-pass the Rules Committee and the Speaker. But the rule had drawbacks: A motion to adjourn took precedence over the call of the committees, and each proposal was subject to some dilatory tactics, so that months might elapse before a committee could have the floor under the rules. (Weekly Report p. 1507)

Consent Calendar

The Consent Calendar provided for the reading of less important bills twice a month, all such bills to be passed by unanimous consent. This practice stopped the censorship by the Speaker of such bills, although it did not bar him from objecting as a Member once the bill had been read.

In effect, both Calendar Wednesday and the Consent Calendar, like the Discharge Calendar, adopted after the

Other Service by Speakers

One Speaker (Polk) served as President of the United States; three others (Clay, Bell, and Blaine) were unsuccessful candidates for the Presidency; two (Colfax and Garner) served as Vice-President; and at least two (Clark and Rayburn) declined strong opportunities to become Vice President in order to remain as Speaker. Five (Trumbull, Polk, Cobb, Banks, and Pennington) served as State Governors. Four (Clay, Cobb, Blaine, and Carlisle) served as Cabinet officers in the United States and one (Hunter) served as a Cabinet Secretary of the Confederacy. One Speaker (Barbour) was an Associate Justice of the Supreme Court. Following is a list of Government offices and appointments held by former Speakers:

TRUMBULL -- Senator, 1795-96, Governor of Connecticut, 1797-1809.
DAYTON -- Senator, 1799-1805, arrested 1807 for conspiring with Aaron Burr on treasonable projects, never brought to trial. The city of Dayton, Ohio was named for him.

SEDGWICK -- Senator, 1796-99, President Pro Tempore of Senate, 1798-99.
MACON -- Senator, 1815-25, President Pro Tempore, 1825-1827.
VARNUM -- Senator, 1811-17, President Pro Tempore, 1813-14.

CLAY -- Senator, 1806-07, 1810-11, 1831-42, 1849-52; Secretary of State 1825-29; Whig Candidate for Presidency, 1824, 1832, 1844.
CHEVES -- Declined appointment as Associate Justice Supreme Court; President of the Bank of the United States, 1819-22.
BARBOUR -- Associate Justice, Supreme Court, 1836-41.

STEVENSON -- Minister to Great Britain, 1836-41.
BELL -- Unsuccessful candidate for President on the Constitutional Union ticket, 1860; Secretary of War under President William H. Harrison, 1841; Senator, 1847-59.
POLK -- Governor of Tennessee, 1839-41; President, 1845-49.

HUNTER -- Senator, 1847-61; candidate for Presidential nomination, 1860; Confederate Secretary of State, 1861-62; Confederate Senator, 1862-65; President Pro Tempore of the Confederate Senate.
WINTHROP -- Senator, 1850-51.

COBB -- Governor of Georgia, 1851-53; Secretary of Treasury under President Buchanan, 1857-60; Maj. Gen. Confederate Army.
BANKS -- Governor of Massachusetts, 1858-61; Maj. Gen. Union Army.
ORR -- Minister to Russia, 1872-73.
PENNINGTON -- Governor of N.J., 1837-43.

COLFAX -- Vice President of the United States with President Grant, 1869-73.
BLAINE -- Senator, 1876-81; Secretary of State under President Garfield, 1881; unsuccessful Republican candidate for President, 1884; Secretary of State under President Benjamin Harrison, 1889-92; first president of Pan American Congress.

KEIFER -- Maj. Gen. Volunteers, Union Army, Spanish American War.
CARLISLE -- Senator, 1890-93; Secretary of Treasury under President Cleveland, 1893-97.
CLARK -- Leading candidate in the Baltimore Democratic National Convention of 1912 for the Presidential nomination on 29 ballots, had a clear majority on 8, but declined.

GILLETT -- Senator, 1925-31.
GARNER -- Vice President of the United States with President Franklin D. Roosevelt, 1933-41.

"revolution" (see below), and the Private Calendar, are suspensions of the rules which let the Members prevail over the Speaker and the Rules Committee.

Setbacks for Cannon

The coalition of Democrats and insurgent Republicans waited patiently through 1909 until the balance of power should favor them due to absence of unfriendly Members. Their first success came on January 7, 1910, when an amendment requiring the House to elect the House Members of a joint investigating committee, introduced by Rep. Norris, carried, 149-146. The Speaker had formerly enjoyed the right of appointment to joint committees, as he does today. This blow at the Speaker's powers was followed on Wednesday, March 16, by the overruling of the Speaker on the question of whether amendments to the census act in a decennial year were privileged business under the Constitutional provision for a census. Speaker Cannon held that Calendar Wednesday could be superseded because the census was so privileged, but his ruling was reversed, 112-163.

On the next day, Rep. Norris offered a resolution to elect a Rules Committee of 15, with 9 majority and 6 minority Members, providing that the Speaker should not be a Member. At that time, the Democrats and insurgents had a majority on the floor. Many Members had left for St. Patrick's Day celebrations and the weekend.

Norris claimed the floor on the tactic of Constitutional privilege, based on the Constitutional provision that "each House may determine the rules of its proceedings." Although the motion was contrary to the rule and the precedents that all such motions must be referred to the Rules Committee, Norris and Clark hoped to be able to overrule the Speaker and force the change.

As expected, Rep. Dalzell made the point of order that the resolution was not privileged, and not in order. Debate upon the point of order continued through the 17th, and on the 18th and 19th, while both sides maneuvered to increase their strength. In ruling, on the 19th, Speaker Cannon explained the Chair's reluctance to rule on the point of order: "In no other manner could the most complete information be brought to the consideration of the question, and in no other way could the largest participation of the Membership of the House be assured."

His decision, as expected, was to rule the resolution out of order. Norris appealed. The Chair was overruled 182-160. Following this, the Norris resolution, amended to provide 11 Members instead of 15, carried, and the "revolution" had succeeded.

As a further liberalization of the rules, the House adopted the forerunner of the present Discharge Calendar on June 17, 1910. This rule forced any committee, on the demand of the majority of Representatives, to make a report on any bill that had been before it for a specified time, on which it had made no report.[8]

The 62nd Congress, in adopting its rules, provided that the House should elect its committees, and the present machinery of selection (involving the selection of members of committees by each party, and their ratification by the House) was developed.

The effect of the revolt was to de-institutionalize the power of the Speaker, and to partially free dissenting Members of the majority party and Members of the minority party from his discipline. The powers of the leadership in the House were split up, so that now committee chairmen -- particularly the Rules Committee Chairman -- can be somewhat independent of the Speaker. Since 1911, seniority has counted for more in establishing a Member's rank on a committee than adherence to the Speaker's will or to party policy. Speakers since 1911 have had to be persuasive and diplomatic more often than dictatorial and peremptory.

FROM 1911 TO 1961

Despite the 1910 "revolution", the consensus is that the Speakership has not declined very much in prestige or in power. The Speaker is still invested with the power of the majority when he is chosen, and the rules of the House still tend to favor the majority leadership. The Speaker's wishes are usually preponderant in filling committee vacancies, and in the policy decisions of the leadership.

Both political parties have resorted to several methods of arriving at policy decisions since 1911. In the years immediately following the "deposition" of the Speaker, the Democratic Party in the House tended to distrust the placing of too much initiative in Speaker Clark's hands. Clark tended to consult the whole party in caucus on major decisions (1911-1919), in contrast to the method employed by Cannon and Reed, where the caucus was informed of the decision of the leadership. During the Republican Congresses of the 1920's, policy-making was in the hands of a Steering Committee, on which, originally, the Speaker did not sit. Indeed, so strong was sentiment in the House against leaving policy to the Speaker that Frederick H. Gillett (R Mass. 1893-1925; Speaker 1919-1925) won the caucus nomination to the Chair in 1919 on the grounds that James R. Mann (R Ill. 1897-1922), Minority Leader from 1911-1919 and his chief rival for the post, was an apostle of "Cannonism" and would bring despotism back to the Speakership.

Gillett soon was invited to attend the meetings of the powerful Steering Committee, however, as were the Majority Leader and Majority Whip, and the Speaker again began to make his counsel felt. Under Speaker Nicholas Longworth (R Ohio 1903-1913, 1915-1931; Speaker 1925-1931) the Steering Committee fell into disuse, and was replaced by an informal group known as the "Big Four," including the Speaker, the Majority Leader, the Whip, and a confidant of the Speaker's.

John Nance Garner (D Texas 1903-1933; Speaker 1931-1933) preferred a similar informal method of arriving at decisions when he was Speaker, and the Democrats did not set up a Steering Committee until 1933, under the Speakership of Henry T. Rainey (D Ill. 1903-1921, 1923-1934; Speaker 1933-1934). This policy group soon fell into disuse, however, although it still exists.

Speakers since Longworth have tended to bypass the formal organs of policy making, and have consequently gained in power, as they control the methods they select. Longworth also instituted the custom of inviting a group of friends to meet with him occasionally and discuss legislation, a custom which Garner appropriated. Sam Rayburn (D Texas 1913-61; Speaker 1940-47, 1949-53, 1955 - 61), who was a friend of Garner's when he was Speaker, developed the custom into the now-famous meetings of the "board of education." The membership of this group is never fixed, and may vary from meeting to meeting, depending on the Speaker's invitation.

[8] Floyd M. Riddick, *The United States Congress, Organization and Procedure*, Washington, D.C., 1949, p. 238.

Occasionally Senators and Minority Members are welcomed. The group is not always concerned with policy decisions, which may be made in other informal ways, or in meetings of the formal leadership, which includes the Majority Leader and the Whip in addition to the Speaker. But it is indicative of the present arrangement in the House that the leadership thinks in terms of persuading or "educating" the membership rather than coercing it.

The tools of "education" can still include coercion, as was shown this February when Rep. John J. Flynt (D Ga.) said that he was told he could have a coveted Appropriations Committee assignment only if he voted for the enlargement of the Rules Committee. He voted against enlargement. He did not get the assignment.

Personal Influence of Speaker

In 1928 (Speaker: Nicholas Longworth), after analyzing the development of the Speakership from 1896, one writer concluded: "It seems inevitable that the leadership of the Speaker will pass from its present position to a much stronger one.... How far this tendency will go depends upon two conditions: (1) the character of the person in the Speaker's chair, and (2) the extent of interest the American people show in the House of Representatives." [9] It has been generally conceded that Rayburn, who has wielded the greatest power of any Speaker since Cannon, built this power on the respect and trust with which he was regarded in the House.

In doing so, Rayburn developed informal and personal methods of policy making and leadership to a greater extent than any Speaker before him. He tended to make his decisions, such as when to schedule legislation for the floor, on the basis of his celebrated knowledge of "the mood of the House." This knowledge he collected not only through the formal whip organization, but also, and primarily, through informal means, such as his frequent consultations with friends on the floor of the House when he was not sitting in the Chair, and the meetings of the "board of education."

[9] Chiu Chang-wei, *The Speaker of the House of Representatives since 1896*, New York, 1928, p. 342.

Comments by Past Speakers on the Speakership

Henry Clay, on taking the Chair Dec. 1, 1823, described the principles regulating the duties of the Speaker: "They enjoin promptitude and impartiality in deciding the various questions of order as they arise; firmness and dignity in his deportment toward the House; patience, good temper, and courtesy toward the individual Members; and the best arrangement and distribution of the talent of the House, in its numerous subdivisions, for the dispatch of the public business; and the fair exhibition of every subject presented for consideration. They especially require of him, in those moments of agitation from which no deliberative assembly is always entirely exempt, to remain cool and unshaken amidst all of the storms of debate, carefully guarding the preservation of the permanent laws and rules of the House from being sacrificed to temporary passions, prejudices, or interests."

Thomas B. Reed, on presenting a resolution of thanks to Speaker Crisp, March 3, 1893, said of the office: "Whoever at any time, whether from purposes of censure or rebuke or from any other motive, attempts to lower the prestige of that office, by just so much lowers the prestige of the House itself, whose servant and exponent the Speaker is.... The Speaker is...the embodiment of the House, its power and dignity."

Nicholas Longworth, on being elected Speaker of the 69th Congress, said of the office: "The functions and duties of the Speakership...divide themselves into two general classes, the one parliamentary, the other political.

"The first I propose to administer with most rigid impartiality. With an eye single to the maintenance in the fullest degree of the dignity and honor of the House, and the rights and privileges of its Members, I promise you that there will be no such things as favoritism... of either parties or individuals.... The political side, to my mind, involves a question of party service. I believe it to be the duty of the Speaker, standing squarely on the platform of his party...."

Champ Clark once said: "It is a great thing to be a Speaker of the House."

Joseph W. Martin Jr. on the powers of the Speaker in his book, My First Fifty Years in Politics: "Next to the President, the Speaker is the most powerful elective officer in the United States. In some respects he is less powerful than he was years ago, but in others he is more so.... During the half-century since that revolt against Cannon's rule, Speakers have succeeded in rebuilding a great deal of the power that "Uncle Joe" lost.... The thing that makes the Speaker's influence greater in a way than it used to be is the much broader role the House plays in the government than it did in Cannon's day.... Since the Constitution provides that all appropriations must originate in the House, the House has come to have a large influence.... As the role of the House has grown, the Speaker's influence has increased."

Sam Rayburn, in an interview published in U.S. News and World Report, Oct. 13, 1950, on the power of the Speaker: "The old day of pounding the desk and giving people hell has gone. We've all grown up now. A man's got to lead by persuasion and kindness and the best reason - that's the only way he can lead people. And a Speaker should be personally popular. He can't crack down on people.... A lot depends on the man that for the moment is occupying the position."

On taking the Chair, January 7, 1959: "There is no such thing as an upper and a lower House of the Congress of the United States. They are coordinate and equal, and this body will remain equal if I have my way."

On taking the Chair, January 3, 1961: "...the House of Representatives has been my life, and it is today and it has always been my love."

It was also significant that Rayburn was reluctant to call a caucus for the purpose of binding the minority of the party to the decision of the majority on a vote, preferring to use his considerable personal influence and occasional pressure to get the support he needed.

In part, these methods reflected the more diverse nature of the major parties. Rayburn was usually successful in keeping the Democratic Party together because he refused to force the various factions into a rigid mold. As long as the strong Speakers of the Reed-Cannon era had large majorities, or had well-disciplined parties, they were successful. But Cannon was defeated primarily by Members from his side of the aisle whom he had refused to conciliate.

Thus the decentralization of power in the House led the Speaker to use informal means to exercise his power. But in one way, the more decentralized nature of party leadership strengthened the Speaker's position. Formerly, he took most of the responsibility for majority successes or failures in the House. Now responsibility is harder to fix, and the Speaker has "whipping boys" in the committee chairmen, and especially the chairman of the Rules Committee, who must accept most of the blame for the failure of programs to which the Speaker gives public support.

OUTLOOK

One of the effects of Rayburn's reliance on informal methods of arriving at decisions was that the more formal structures within the Democratic Party which are designed to formulate and carry out policy -- the Steering Committee and the Whip System -- fell into disuse or played a more subordinate role than they were intended to play. Thus future Democratic Speakers will have to provide a strong personal leadership, or they may have to revive the Steering Committee and reorganize or tighten up the Whip System.

Some observers feel that the latter course is possible in the near future, because they feel that no coming Speaker will exercise as much power as Rayburn, or be able to duplicate his intricate methods of determining the will of the majority or of guiding it. If the Steering Committee is revived, the Speaker may find himself in much the same position envisaged by the reformers of 1910, who looked upon the holder of the office as merely first among equals, and not a man with "no peer."

Capitol Briefs

UNEMPLOYMENT FIGURES STUDY

President Kennedy Nov. 10 appointed a board of six statistical experts to study the Federal Government's method of arriving at employment figures. It was designed to determine whether they could be made more useful and reliable in combatting unemployment. Secretary of Labor Arthur J. Goldberg said in a letter it was "essential that the public have complete confidence in the statistics." Goldberg said he had received numerous suggestions for improving the statistics.

Currently unemployment figures, reported monthly, are compiled by the Census Bureau from interviews with 35,000 households in 333 areas throughout the country and checked by payroll reports from 180,000 employers and by statistics on unemployment compensation.

The President said Robert Gordon, chairman of the economics department at the University of California (Berkeley), would direct the study. Other members included Robert Dorfman of Harvard University, Martin R. Gainsbrugh of the National Industrial Conference Board, Albert E. Rees of the University of Chicago, Stanley H. Ruttenberg of the AFL-CIO, and Frederick F. Stephan of Princeton.

BALANCE OF PAYMENTS

The Commerce Department Nov. 13 reported that during the third quarter of 1961 (July-Sept.) the nation's deficit in international payments rose to an annual rate of slightly more than $3 billion. The increase -- a rise of nearly 50 percent over the previous quarter -- amounted to $800 million, which compared with $475 million for the second quarter and $350 million for the first quarter of 1961.

Department officials ascribed the rise primarily to two factors: an exceptionally rapid increase in merchandise imports resulting from the business recovery; and a decline in foreign investments in the United States.

During the third quarter the outflow of gold from the U.S. Treasury also increased, resulting in a decline of $145 million in gold holdings. This offset an earlier increase of about the same amount. (Weekly Report p.1608)

CIVIL RIGHTS

Sen. Clifford P. Case (R N.J.) Nov. 15 said that he expected to meet soon with Sen. Jacob K. Javits (R N.Y.) to plan what civil rights legislation they should press for in the 1962 session of Congress. He said they would review existing legislation to "see where the gaps" were. He indicated that one of the proposals would be to empower the Attorney General to seek injunctions to enforce school desegregation. Case said it was unlikely that there would be a new attempt to push for a curb on the Senate filibuster rule (Rule 22) next year. (Weekly Report p. 1840)

Javits Nov. 11 wrote Attorney General Robert F. Kennedy urging him to support legislation in 1962 granting federal injunction authority in school desegregation cases. Javits said experience had proved that "without such specific authorization the Attorney General had no power to institute or intervene in school desegregation cases." (Weekly Report p. 667)

CORRECTION

Page 1789 -- Figures in the text and the chart appearing on page 1 of the Fact Sheet on City Finances refer to revenues and expenditures of all U.S. cities, not just the 310 largest cities.

CQ Fact Sheet **On Antitrust Actions**

KENNEDY ANTITRUST RECORD DRAWS FIRE FROM BOTH SIDES

Concentration on "fewer and better antitrust cases" has marked the trend of trust busting by the New Frontier, according to the Justice Department's antitrust chief Lee Loevinger.

His policy has been to avoid nuisance actions in favor of cases of economic significance which he is prepared to litigate fully, the assistant attorney general in charge of the Antitrust Division told CQ. Loevinger, who came to the Justice Department from the Minnesota Supreme Court, has disclaimed any intention of compiling a statistical record of cases filed. Statistical measures of antitrust enforcement are "misleading and deceptive", he told the American Bar Assn. in August.

Loevinger's nine-month record as antitrust chief has been the source of criticism from two directions:

- Members of the business community have complained that antitrust policy has been an anti-business policy.
- Students of antitrust law have complained that the antitrust record has been disappointingly unaggressive and lacking in the legal pioneering they had anticipated.

In answer to both streams of criticism Attorney General Robert F. Kennedy and Loevinger now repeatedly reiterate that their record has been one simply of enforcing existing antitrust laws (in the Attorney General's words) "with vigor and fairness".

At his press conference Nov. 8 President Kennedy observed of criticism from business leaders: "Well, if to stop them saying we are anti-business, we are supposed to cease enforcing the antitrust law, I suppose the cause is lost."

Under Loevinger's direction and following his "selective approach", the Department filed 28 new antitrust cases in the first nine months of the new Administration. The great majority of the new cases dealt either with price-fixing offenses or mergers. During the first nine months of the Eisenhower Administration in 1953, the Justice Department instituted roughly the same number, 23, new antitrust proceedings.

The first widely heralded trust-busting campaigns were waged by Theodore Roosevelt while he was in the White House. The campaigns resulted in few major court decisions unfavorable to large industries. Under President Woodrow Wilson the antitrust laws were further strengthened. In the Twenties, antitrust action sharply declined and vigorous antitrust action was not resumed until the coming of the "New Deal."

In the late Thirties after Thurmond Arnold, as Assistant Attorney General in charge of the Antitrust Division under President Franklin D. Roosevelt, had undertaken to make effectual what he had earlier termed "the entirely futile but enormously picturesque antitrust crusades", the highly complex field of antitrust enforcement developed marked political overtones. The Democratic party developed a potent political reputation for trust busting. But the Republican Administration, first under antitrust chief Stanley N. Barnes (appointed to a circuit judgeship in 1956) and then under acting Assistant Attorney General Robert A. Bicks, tended to enforce the antitrust laws with a vigor and enthusiasm which largely removed antitrust from the political arena.

Comparisons of Loevinger's record with that of his Republican predecessor Bicks is a hazardous task because many of the cases filed by Loevinger were prepared under Bicks. Loevinger has accorded Bicks "all due credit" for his role in commencing the electrical price-fixing cases. However, some officials now in the Division say they feel that Bicks compiled his record in part by filing an unnecessary number of "nuisance suits" and by placing undue emphasis on anti-merger cases.

This fact sheet reviews the New Frontier's nine-month record of antitrust enforcement.

Background

In 1890 Congress passed the Sherman Act and supplemented it in 1914 with the Clayton Act. There are numerous provisions in these two basic antitrust statutes, but the major work of the Justice Department's Antitrust Division centers on three sections. These are sections 1 and 2 of the Sherman Act and section 7 of the Clayton Act.

Section 1 of the Sherman Act: forbids combinations and conspiracies in unreasonable restraint of trade. Prohibited under section 1 are such practices as collusive price-fixing, agreements not to compete, agreements to divide markets, and group boycotts. The offense is both criminal and civil, and may be incurred both by an individual and a corporation. The penalty for criminal violation is a maximum of $50,000 in fines and up to a year in prison for each violation. The penalty for civil infraction is treble damages to injured companies and, when ordered by the court, divestiture.

Section 2 of the Sherman Act: prohibits monopolization. The section, the core provision of antitrust law, does not prohibit monopoly in a passive sense, but active monopoly. To meet the requirement of monopolization the courts have evolved the principle that there must be a showing of both monopoly power and an intangible called "intent". In the course of considering section 2 cases, the courts have gradually altered the definition of "intent". Whereas it was once felt that it could only be shown by "predatory" business practices, the test is now much less severe. Given a showing of monopoly power, evidence of any "exclusionary practice" is now said to suffice to prove monopolization. The offense is both criminal and civil, and may be incurred by both an individual and a corporation. Penalties for infractions are the same as those for section 1.

Section 7 of the Clayton Act: prohibits mergers whose effect may be "substantially to lessen competition". In order to strengthen section 7, Congress in 1950 passed the Celler-Kefauver Act. The section now covers two types of mergers: those by stock acquisition and those by asset acquisition. It applies to all mergers by corporations engaged in interstate commerce, which are consummated through stock acquisitions. In the case of asset acquisition mergers it applies only to corporations

Sherman Act Called Charter of Economic Freedom

The earliest recorded legal codes -- dating from more that 2,000 B.C. -- contain provisions for protection of the public against undue concentration of economic power. The first reported English case declaring restraint of trade illegal was the Dyers case in 1415 and the earliest common law decision against monopolies was in 1602. The first English statute outlawing monopolies was enacted in 1623.

There can be little doubt that Congress thought it was following this ancient tradition and supplementing Anglo-American common law when it adopted the Sherman Act in 1890. Speaking in the Senate on March 21, 1890 in support of his bill, Senator Sherman said it "does not announce a new principle of law, but applies old and well-recognized principles of the common law to the complicated jurisdiction of our State and Federal Government." In the Standard Oil case (1911), the first significant interpretation of the Sherman Act, the Supreme Court through Chief Justice White said the terms "restraint of trade" and "monopolization" as used in the Act "took their origin", at least in their "rudimentary meaning" from pre-1890 Anglo-American common law.

The Sherman Act has endured several cycles of judicial construction without the Court's questioning its basic objective of promoting competition in open markets. The Court in the Northern Pacific Railroad case (1958) said of the Act: it was designed to be a "comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions."

The Act's avoidance of specific and precise language has made it something of a judicial shuttlecock and the object of business criticism. But Chief Justice Hughes said of its phraseology in the Appalachian Coals case (1933): "As a charter of freedom (it) has a generality and an adaptability comparable to that found to be desirable in constitutional provisions. It does not go into detailed definitions which might work either injury to legitimate enterprises or through particularlization defeat its purposes by providing loopholes for escape."

subject to FTC control. As a rule the degree of proof for violations of section 7 is less severe than that required under sections 1 and 2 of the Sherman Act. Unlike sections 1 and 2, section 7 is not a criminal statute; the penalty for infractions is treble damages to injured companies and, when ordered by the court, divestiture.

Congress created a system of dual enforcement for section 7 of the Clayton Act. The Act specified that the Attorney General share responsibility for enforcing the anti-merger provision with the Federal Trade Commission. Congress empowered the Commission in the 1914 FTC Act to issue either cease and desist or divestitute orders in the case of section 7 violations. Congress also empowered the FTC (as it has not empowered the Attorney General -- see below) to issue subpoenas in civil cases to compel the production of corporate records relating to mergers. The Supreme Court has extended the area of dual antitrust enforcement by the Attorney General and the FTC to the Sherman Act by holding that the FTC may also prosecute Sherman Act section 1 (unreasonable restraint of trade) offenses as "unfair methods of competition" under section 5 of the FTC Act.

After many years of duplicated efforts and competition, a system of liaison has gradually developed between the Antitrust Division and the FTC. Each agency now checks with the other prior to initiating an investigation or grand jury proceeding. From case by case action a pattern of enforcement has gradually emerged whereby each agency has tended to assume primary surveillance responsibility for industries in different segments of the economy. For instance, Justice has assumed primary responsibility for the automobile and oil industries while the FTC now watches such industries as cement and food.

As a rule, only a little over one-quarter of the antitrust cases filed by the Justice Department are fully litigated in the courts. The remaining cases are compromised through negotiation of consent decrees (only possible in civil cases). These decrees, which when entered in court are final, amount to pretrial settlements of antitrust issues at stake.

1961 Actions

Since the Kennedy Administration took office Jan. 20, the Justice Department has initiated antitrust complaints under the three principal antitrust sections of the Sherman and Clayton Acts; has filed damage claims in the electrical price-fixing cases; has instituted several changes in antitrust enforcement procedures; and has moved in the courts to challenge the trend of bank mergers. Following are the major actions:

Restraint of Trade

The Justice Department instituted the following proceedings under section 1 (unreasonable restraint of trade) of the Sherman Act between Jan. 20 and mid-November:

- March 6, grand jury (criminal) indictment of five bakeries in Jacksonville, Fla. for rigged bidding on the sale of bakery goods to U.S. Navy installations in the Florida-Georgia area.
- March 6, civil complaint against the Idaho State Pharmaceutical Assn. alleging the fixing of arbitrary and non-competitive prescription prices. A similar complaint was filed the following day against the Utah State Pharmaceutical Society.
- March 22, grand jury indictment of eight milk companies and four executives on charges of rigging bids and fixing prices in Baltimore schools.
- April 7, accusation that the Chrysler Corp. was applying illegal pressure against its dealers to give up franchises of other cars, notably Studebaker-Packard's Lark.

● May 2, grand jury indictment of Avdel, Inc. in Los Angeles, manufacturers of a "quick release pin" used in defense work, alleging suppression of competition and fixing of prices (also indicted under sec. 2).

● May 16, grand jury indictment of eight Washington area building supply firms and six of their executives for price-fixing. (Indicted under sec. 3, applying sec. 1 to the District of Columbia.).

● June 6, grand jury indictment in Milwaukee of six manufacturers of transmission line hardware for price-fixing.

● June 28, grand jury indictment in St. Paul, Minn. of four rock salt companies on charges of price fixing in the sale of rock salt to state and municipal governments throughout the country.

● June 30, District of Columbia grand jury indictment of four of the nation's largest moving firms, five of their executives, and a trade association on charges of rate fixing for moving household goods.

● Aug. 1, grand jury indictment of the nation's two largest eye glass companies, American Optical and Bausch & Lomb, and executives of the firms for manipulating prices in an effort to pressure independent competitors out of business (also indicted under sec. 2).

● Aug. 17, grand jury indictment in New York of three "wonder drug" manufacturers, Charles Pfizer, American Cyanamid, and Bristol-Myers, and three top executives on charges of maintaining unreasonably high prices and monopolizing production (also indicted under sec. 2). (An FTC examiner Nov. 12 dismissed FTC charges that six drug manufacturers including those named in the Justice Department case had attempted to monopolize the antibiotics industry and conspired to fix prices.)

● Aug. 22, civil action in New York charging four firms with price fixing in the sale of carbon dioxide used in dry ice, refrigeration, and missile manufacture.

● Oct. 12, grand jury indictment of General Motors Co. in Los Angeles, together with four Chevrolet sales executives and three Chevrolet dealers associations for conspiring to suppress and eliminate competition in the Los Angeles area.

● Oct. 24, grand jury indictment of the nation's two principal manufacturers of lockbolts, metal fasteners used in airplanes, together with their two presidents on charges of conspiring to fix prices and expand legal patent privileges into a monopoly (also under sec. 2, and sec. 14 of Clayton Act, pertaining to criminal liability).

● Oct. 25, grand jury indictment in Los Angeles of nine corporations, four of their officers, and two partners in other firms on charges of illegally fixing prices for wooden flush doors.

Monopolization

Antitrust Division lawyers told CQ they considered an April 12 Sherman Act, section 2 (monopolization) indictment charging General Motors with criminally monopolizing the production and sale of diesel locomotives the most significant antitrust action filed under the new Administration.

A New York grand jury indicted GM under section 2 on the charge of using illegal sales methods to suppress competition and capture 84.1 percent of locomotive business for its Electromotive Division. The indictment charged that GM, "probably the nation's largest shipper of freight", routed shipments to favor purchasers of its locomotives and withheld or reduced patronage to lines buying diesels from GM competitors. Frederick G. Donner, chairman of the GM board, has denied his corporation engaged in the practices charged.

Apart from the May 2 Avdel indictment and the Aug. 17 "wonder drug" indictments (see above), the only other action by the Justice Dept. under section 2 has been a divestiture proceeding April 13 in Providence, R.I. against four interrelated firms doing the bulk of the nation's fire and burglar alarm business.

Mergers

The following Clayton Act, section 7 (mergers) cases have been filed by the Justice Department since February:

● Feb. 17, civil action to require Koppers Co., Inc. of Pittsburgh, Pa., a maker of flexible couplings for transmitting power between industrial machines, to divest itself of another coupling manufacturer, Thomas Flexible Coupling Co., Warren, Pa.

● April 27, divestiture action against Aluminum Co. of America and enjoiner against proposed acquisition by Kaiser Aluminum and Chemical Co. to bar their movement into the architectural aluminum field.

● April 28, civil action asking divestiture by Kaiser Aluminum and Chemical Co. of its Bristol, R.I. plant which before its acquisition in 1957 was the U.S. Rubber Co.'s wire and cable dept.

● May 16, divestiture action against Continental Oil Co. for its 1959 acquisition of Malco Refineries Inc. of Roswell, N.M.

● July 11, civil action charging antimerger violation against Suburban Gas of Pomona, Ill. and seeking divestiture of one of its large, one-time competitors.

● Sept. 19, an injunction proceeding to block sale of Honolulu Oil Corp. to Tidewater Oil Co. and Pan American Petroleum Corp. was denied and the action remained as a divestiture proceeding.

Damage Complaints

In the aftermath of February's plea of guilty or no contention (nolo contendere) by 29 electrical-equipment manufacturers to charges of price fixing and bid rigging (Weekly Report p. 1195), the Justice Dept. moved ahead on two fronts:

● Negotiation of consent decrees to 19 separate civil actions filed by the Government as companions to the criminal counts;

● Filing of eight separate civil damage complaints on behalf of government agencies and TVA, seeking variously triple, double, and single damages from the electrical manufacturers.

The legal complexities involved in the damage actions are expected to take a minimum of two years to be fought out and unraveled in the courts. The two principal legal points in contention are the extent to which a company's plea of guilty to a criminal indictment may establish its liability in a civil damage case and, what, if any, were the damages suffered.

In only one action, filed March 14 against five of the electrical manufacturers, has the Justice Dept. specified the amount of damages it is seeking. In that instance it asked for $12 million under the contention that TVA is a separate corporation and therefore may sue for treble damages under section 4 of the Clayton Act and that a little-known law, the False Claims Act, permits double damages for "false claims" submitted for payment.

While estimating that damage claims would run "into the millions" for the other seven complaints filed, the Department has not yet asked for specific amounts because it said it has not finished analyzing the data of government purchases.

Administrative Actions

The Attorney General since February has also instituted three significant administrative changes and modifications in existing antitrust enforcement practices:

* On March 23 he invoked an obscure provision of the 1914 Federal Trade Commission Act -- used only once since the Act was adopted -- and asked the FTC to investigate 56 back consent decrees and judgments. He asked the Commission to find out if defendants in what he said were the "major" antitrust judgments since 1940 were living up to the decrees entered against them. Paul Rand Dixon, chairman of the FTC, after receiving the Attorney General's request, said he "welcomed the inauguration of a new era of co-operation" between Justice and FTC and promised to undertake the investigation.

● Under the authority of an April 24 Presidential executive order, the Justice Dept. established an extensive program of reporting on identical bids submitted to federal, state, and local government agencies. Federal civilian agencies began reporting identical bids of more than $10,000 to the Dept. July 15; military agencies began reporting Aug. 1. The Attorney General extended the program to approximately 2,000 state and local governments effective Nov. 1, with the request that they forward reports on all identical bids of more than $1,000. The raw data, he said, would be fed into computers in an attempt to spot price-fixing patterns. Suggestive leads would be turned over to the FBI and federal grand juries for exhaustive investigation.

● On June 29 the Attorney General signed an order requiring a 30-day waiting period, during which a consent decree would be subject to public examination and appraisal, before being entered in court. In the past, consent decrees -- settlements of civil antitrust cases -- were secretly negotiated and entered in court before their terms were disclosed. The Attorney General's order accomplished what Sen. Estes Kefauver (D Tenn.) and Rep. Emmanuel Celler (D N.Y.) have sought to legislate for a number of years. Kefauver and Celler frequently complained in the past that consent decrees too often had the effect of legalizing monopoly rather than curbing it. (1958 Almanac p. 56)

Bank Mergers

Prevailing theory has held that bank mergers were not covered by section 7 of the Clayton Act since banks generally merged through the asset acquisition yet were not subject to FTC jurisdiction -- a necessary condition in the case of asset mergers (see above).

To check the trend of bank mergers Congress passed the 1960 Bank Merger Act extending federal regulation of bank consolidations. It prohibited mergers of insured banks without prior written consent of the appropriate federal supervisory agency (the Comptroller of Currency for all national banks, the Federal Reserve Board for state-chartered member banks and the Federal Deposit Insurance Corp. for other state-chartered banks). In granting or withholding consent, these agencies were required to take into consideration the effect of a proposed merger "on competition -- including any tendency toward monopoly" and to obtain the view of the Attorney General on this question. (1960 Almanac p. 301)

Early in the Administration Attorney General Kennedy concurred in a conclusion reached in late 1960 by the Antitrust staff that the 1960 Bank Merger Act had failed to halt the trend toward bank consolidations and that Justice should move to block selected mergers in the courts.

Between May 1960, when the Act was adopted, and Dec. 31, 1960, the Comptroller of the Currency Ray M. Gidney became a source of deep controversy by approving all 54 applications for national bank mergers submitted to him. To almost half of these applications (in 24 instances), the Attorney General under the provisions of the Act objected on the ground the proposed merger would tend to lessen banking competition. The record of approvals by the Federal Reserve Board and the FDIC for state banks also heavily favored bank mergers.

On February 25, the Justice Dept. sought an injunction before Philadelphia District Court Judge Thomas J. Clary to halt the proposed merger of the Philadelphia National Bank and the Girard Trust Corn Exchange Bank, the second and third largest banks in the city. The merger had previously been approved by Gidney. The complaint alleged that the merger by creating a bank 50 percent larger than its nearest competitor violated section 1, the "unreasonable restraint of trade" provision of the Sherman Act and the Clayton Act's section 7 prohibition of mergers which "may substantially lessen competition."

In moving to challenge the Philadelphia merger, Attorney General Kennedy said: "The Department of Justice does not consider size of firms or expansions per se to be reasons for an antitrust action. However, when growth occurs by acquisition of competition and the result is an immense concentration of power then the Federal Government must and will act." The Department subsequently instituted proceedings against four more bank mergers:

● March 1, injunction to block the proposed merger of the first and fourth largest banks in Lexington, Ky., charging violations of sections 1 and 2 of the Sherman Act.

● March 2, civil action to invalidate acquisition of two banks by the Bank Stock Corp. of Milwaukee, Wis., a holding company, under section 7 of the Clayton Act.

● Aug. 29, temporary order to restrain the merger of Chicago's second and sixth largest banks, Continental Illinois National Bank & Trust Co. and City National Bank & Trust Co. Federal District Court Judge Julius H. Miner denied the motion.

● Sept. 8, motion for a temporary order to restrain consolidation of New York City's fifth and eighth largest banks, Manufacturers Trust Co. and Hanover Bank, under sections 1 and 7. Federal District Judge John M. Cashin denied the motion on the ground the merger had already been consummated.

The unresolved legal problem facing the Justice Department in attempting to challenge bank mergers in the courts hinges principally on the applicability of section 7 of the Clayton Act to bank consolidations (see above). The Justice Department claimed that even though technically bank mergers are consummated by asset acquisition (hence outside section 7), in fact, bank consolidations almost always involve the exchange of stock. On this ground the Justice Department said section 7 should be applied to bank mergers when their effect is "substantially to lessen competition." Should the courts

deny this contention, the Department would have to fall back on the more difficult legal task of persuading them to declare bank consolidations violations under the Sherman Act. A decision in the Philadelphia case was expected in mid-December.

Following the first flurry of court room challenges by the Justice Department in late February and early March, Secretary of the Treasury Douglas Dillon and Attorney General Kennedy entered into an "accord" of March 20, concurred in by Republican holdover Gidney, that the Comptroller would hold up approval of all further mergers to which Justice objected on antitrust grounds. The accord "blew sky high", according to Justice Department lawyers, when Gidney sought and obtained an exception in the case of the Continental-City National merger in Chicago. Justice granted the exception but reserved the right to challenge the merger in the courts, which it promptly did.

Approval of the Continental-City National merger by the Comptroller instigated a fresh round of criticism of Gidney, particularly by Rep. Wright Patman (D Texas), chairman of the Joint Congressional Economic Committee. On Sept. 20, in what was attributed to a clerical error, the White House announced its "expectation" of naming James J. Saxon as Comptroller of Currency before it had sought and obtained Gidney's resignation. Informed of the announcement, Gidney submitted his resignation, effective Nov. 15. (Weekly Report p. 1713)

In interviews, the incoming comptroller, a former Treasury official and attorney for the First National Bank of Chicago, has said he believes full disclosure of the reasons behind a merger decision should be made public at the time a conclusion is reached. Gidney set forth his reasons only in his annual report, a sore point in his relations with the Antitrust Division. The Federal Reserve Board, following the Justice Department's challenge of its approval of the Manufacturers Trust-Hanover Bank merger in New York, Oct. 31 also announced revisions in its merger application procedure. In the future, it said, it will require merging banks to wait seven days before formally completing their merger in order to allow the Justice Department time to seek a court injunction. In the future, it also announced, merger approvals or denials by the Board would be accompanied by reasons for the decision.

Legislative Outlook

Prospects are regarded as good that two bills sought by the Justice Department since 1956 (1956 Almanac p. 524) to strengthen antitrust enforcement procedures will be approved during the second session of the 87th Congress. The bills are S 167, authorizing the Attorney General to demand corporate records for use in civil antitrust cases without convening a grand jury, and HR 2882, requiring 30-day pre-merger notification to antitrust enforcement agencies by companies intending to merge. Notifications are currently on a voluntary basis.

The bills are backed by Kefauver, chairman of the Senate Judiciary Antitrust and Monopoly Subcommittee, and by Celler, chairman of the House Judiciary Committee, and each bill has been approved at least once by one chamber in the past. S 167 was passed by the Senate Sept. 21, 1961. Kefauver has said he will not begin to push the pre-merger measure until S 167 has been acted on by the House. (Weekly Report p. 1656)

FTC Reorganizes

Under Chairman Paul Rand Dixon, who was appointed March 21, 1961, the Federal Trade Commission has reorganized staff arrangements and administrative procedures in an attempt to streamline its operations. The immediate impact of reorganization, approved by the House June 20 and by the Senate June 29 (Weekly Report p. 1205), has been to curtail the issuing of new antitrust complaints while a backlog of earlier cases were assimilated to a new operating framework and a revised method of filing complaints was implemented, spokesmen said.

Effective July 1, Dixon replaced the FTC's two major sections of investigation and litigation with three substantive bureaus -- Restraint of Trade, Deceptive Practices, and Textiles and Furs -- each of which was granted complete responsibility for cases in its areas, from investigation through litigation. Dixon further provided that a bureau not recommend a complaint until it was fully prepared to litigate it.

The new Bureau of Restraint of Trade, which assumed antitrust enforcement responsibility, has filed no new cases in the areas of mergers and unreasonable restraint of trade but has brought several cases alleging violations of section 2 of the Robinson-Patman Act (price discrimination). The bureau has also begun the process of checking on compliance with 56 major antitrust decrees, as requested by the Justice Department (see p. 1858)

On Feb. 10, before Dixon succeeded Earl W. Kintner as chairman, the FTC filed a major merger complaint charging American-Marietta Corp., a leading concrete pipe manufacturer and cement producer, with violating section 7 of the Clayton Act.

The full Commission ruled in one merger case, Oct. 30, upholding with some modification the trial examiner's recommendation that Union Carbide Corp. divest itself of Visking Corp., acquired in 1956.

In its policing of deceptive practices, the Commission filed 128 false advertising complaints between March 31, when Dixon became chairman, and July 1, when new procedures went into effect. Under the new procedures, which granted companies the option of accepting a consent order to halt false advertising before a complaint was announced, 19 simultaneous complaint and consent orders have been filed. There have been seven additional cases in which corporations refused to accept false advertising consent orders.

The Department is also expected to push for a number of companion bills introduced in the last session of Congress by Kefauver and Celler designed to increase maximum penalties for antitrust violations (to $100,000) and to require affidavits on bids over $10,000 that they have not been the result of collusion. At a hearing on the bills (S 2252, 2253, 2254, 2255) Sept. 6 Loevinger supported all except S 2253 which specified heavier penalties for price fixing than for other antitrust offenses. Loevinger also backed S 996, introduced Feb. 20 by Sen. William Proxmire (D Wis.), requiring corporations to fire an executive if both corporation and individual were

convicted in the same criminal antitrust case. (Weekly Report p. 1587)

Views Summarized

Some strong statements by Loevinger shortly following the electrical convictions, calling violators of antitrust laws "economic racketeers" who would be treated as criminals and not as respected businessmen, gained wide circulation. They have been frequently cited to fortify speculations that the Administration's antitrust policy was tinged with anti-business overtones. These statements, together with the Division's continuation of the policy of indicting responsible executives, have tended to create a general impression of a tough and vigorous trust busting regime on the New Frontier.

Experienced antitrust observers say, however, there is little in the trust-busting record of the Kennedy Administration (except perhaps the move against bank mergers) to distinguish it from its predecessor. One Washington attorney commented recently: "There's been a lot of flak but nothing in the way of new trends has yet developed." Antitrust lawyers have said they expected the new Administration to make some move to resolve the on-going debate about the application of the Sherman Act's section 1 (restraint of trade) to the administered prices of oligopolistic industries like automobiles, steel, aluminum, plate glass, copper, and drugs. Others have also criticized the sparsity of complaints filed under section 2 (forbidding monopolization), frequently described as the "gut" provision of the Sherman Act.

The 1960 Democratic Platform promised that a Democratic Administration would "act to make our economy really free -- free from the oppression of monopolistic power" and pledged "protection of the public against the growth of monopoly" by "vigorous enforcement of the antitrust law". (1960 Almanac p. 782)

Loevinger has insisted that he prefers to concentrate his Division's available resources on cases of economic importance which have a reasonable chance to prevail. (There is considerable legal doubt that a move against administered prices could be made to stand up in court under existing law.) Loevinger's Division has recently lost several senior men. Not until his Division's resources are greater and time has elapsed to allow for the careful preparation of appropriate cases, is it likely that his antitrust team will begin to probe the perimeters of antitrust law with more aggressiveness.

FINAL RIGHTS COMMISSION REPORT CITES ABUSES BY POLICE

The U.S. Civil Rights Commission Nov. 17 issued its fifth and final report for the years 1959-61. The final volume, titled "Justice", covered police brutality and police connivance in private violence, the Civil Rights Acts and their enforcement, and jury exclusion. It also contained an over-all summary of all five volumes, and conclusions based on a brief study of the status and civil rights of American Indians. The first four reports covered voting, education, housing and employment. (Weekly Report p. 1722)

Administration of justice was a new area of study for the Commission, which focused on actions in this area which constitute denials of the equal protection of the laws promised in the 14th Amendment, with emphasis on the difficulties of Negroes.

The Commission concluded that although "there is much to be proud of in the American system of criminal justice....police brutality is still a serious and continuing problem." It said that "although whites are not immune, Negroes feel the brunt of official brutality, proportionately, more than any other group in American society." The report said that the most frequent setting for brutality was "in the initial contact between an officer and a suspect." It said that policemen take the law into their own hands, "assuming the roles of judge, jury, and sometimes, executioner" for a variety of reasons, not always related to race. But it said that "some officers take it upon themselves to enforce segregation or the Negro's subordinate status," and this most often occurred where local sentiment and tradition were in accord with this policy.

As for the effect of all this, the Commission said: "Illegal violence by officers of the law casts a cloud of suspicion over the entire system of American justice. It violates highly valued constitutional rights and may produce a pervading fear regarding the security of the person. Brutality against a few Negroes may cause many of them to distrust all police officers.... The job of crime control becomes vastly more difficult when a whole segment of the community is wary of any contact with the police." The report cited cases where Negroes were badly beaten, sometimes to death, by police, or were maltreated in prison.

It also cited instances of police "connivance" in private violence, i.e. where police were informed that violence would take place, such as in Birmingham, Ala., earlier in 1961, but did nothing to prevent it, or even where police looked on while Negroes or white sympathizers were beaten.

The report then went on to discuss the knotty problems in the way of enforcement of federal or state laws against police brutality or connivance.

FEW FEDERAL SUITS

Although there are federal criminal and civil statutes making it a crime for any federal, state or local official to deny anyone his constitutional rights, the report said, few suits under these laws are brought in the federal courts and they are rarely successful. The Commission gave several reasons for this: victims are often ignorant of the rights and their possible courses of redress; where suits are brought, there are often few witnesses and little concrete evidence; the police officer usually makes a more believable witness than the complainant; the jury is often hostile to a civil rights suit in a federal court against a local policeman; and the federal statutes have been narrowly construed by the courts, placing a heavy burden of proof on the victim. In addition, victims fear retaliation by other policemen, and often assume that federal officers are closely linked to local police and, to the extent that federal-local cooperation

is necessary, federal investigations of police brutality complaints place FBI agents in "an exceedingly delicate position."

The report also cited as another problem the Department of Justice policy of not acting on a brutality case when state authorities take any steps in the same case.

The report said the most successful type of suits against police brutality is that brought in state courts for recovery of money damages from the brutal policeman. The main problems here, however, are that police are seldom wealthy enough to satisfy a substantial money judgment and most municipalities are not liable for their officers' misconduct.

Another deprivation of equal protection covered by the report was systematic exclusion of Negroes from juries. It said that "discriminatory exclusion of Negroes and other minority groups from juries has diminished during the past century, (but) this badge of inequality persists in the judicial systems of many southern counties." It said that although civil remedies existed, "the burden of combating such racial exclusion from juries now rests entirely on private persons -- almost invariably defendants in criminal trials --" and that the criminal remedy available to the Federal Government is rarely used.

Recommendations

The Commission made the following four recommendations, all of them unanimously:

1. Quality of police forces. That Congress consider enacting a grants-in-aid program to assist state and local governments, on their request, to raise the professional quality of their police forces. The grants-in-aid might be used to develop and maintain recruit selection tests and standards; training programs in scientific crime detection; training programs in constitutional rights and human relations; college-level schools of police administration; and scholarships for police to receive training in these schools.

2. Federal criminal remedies for brutality. That Congress consider adding to the existing federal criminal statute against unlawful official violence (18 USC 242) a section spelling out specific acts that would constitute crimes: physical injury, unnecessary force during arrest or custody, violence or unlawful restraint in order to elicit a confession or to obtain anything of value, refusal to protect any person from known private violence, or assisting private violence.

3. Federal civil remedies for brutality. That Congress consider amending the civil statute against brutality (42 USC 1983) (allowing civil action for injunctions or damages) to make county, city or local governments which employ the officers jointly liable to victims of officers' misconduct. (States were not included because such a statute would be of doubtful constitutionality.)

4. Jury exclusion. That Congress consider empowering the Attorney General to bring civil proceedings to prevent jury exclusion because of race or nationality.

Indians

The Commission said that much of what concerns the Indian lay outside the Commission's scope, but "there is evidence of some serious Indian civil rights problems." It said that in view of the tentative nature of this study, it made no specific recommendations. It did say, however, that several of the recommendations made elsewhere in the over-all report would help Indians as well as Negroes, and further study and action by appropriate federal agencies was warranted.

Concluding Statement

In a concluding statement for the entire five-volume 1961 report, the Commission said that the national objective of equal opportunity was not yet fully achieved. "At home, delay frustrates legitimate private hopes, impedes important national programs, and seriously hinders development of our national strength. Abroad, as President Kennedy has said: 'the denial of constitutional rights to some of our fellow Americans on account of race....subjects us to the charge of world opinion that our democracy is not equal to the high promise of our heritage'." The Commission said that its studies indicated that civil rights problems "occur in complex settings from which they cannot be readily isolated" and traced the cyclical cause-and-effect relationships between discrimination in education, voting, housing, employment and administration of justice. Summarizing its suggested approaches to attacking these problems on all fronts simultaneously, the Commission pointed out that the three chief resources are the power of the law, the use of public money, and the exertion of leadership by the President and others in the National Government.

Appeal to the President

Concluding that "leadership plays a vital role in making clear the legal and moral obligations of the citizens of a democracy....(and) where such leadership is lacking there has been little progress -- and sometimes regression to violence," the Commission made one final recommendation to the President:

"The Commission recommends that the President utilize his leadership and influence and the prestige of his office....by explaining to the American people the legal and moral issues involved in critical situations when they arise; by reiterating at appropriate times and places his support for the Supreme Court's desegregation decisions as legally and morally correct; by undertaking the leadership of an active effort to stimulate the interest of citizens in their right of franchise; and by all other means at his disposal marshaling the nation's vast reservoir of reason and good will in support of constitutional law not only as a civil duty but as essential to the attainment of the national goal of equal opportunity for all."

Commissioner Theodore M. Hesburgh, president of Notre Dame, in a separate final statement, said federal action alone will never completely solve the problem of civil rights -- "Federal action is essential....(but) no single citizen can disengage himself from the facts of this report or its call to action." "Americans might well wonder how we can legitimately combat communism when we practice so widely its central folly: utter disregard for the God-given spiritual rights, freedom, and dignity of every human person," Rev. Hesburgh said. "Personally, I don't care if the United States gets the first man on the moon, if while this is happening on a crash basis, we dawdle along here on our corner of the earth, nursing our prejudices, flouting our magnificent Constitution, ignoring the central moral problem of our times, and appearing hypocrites to all the world."

POWER ADVERSARIES EACH WIN A BATTLE IN 1961

Proponents of public power and private power battled to a draw during the first session of the 87th Congress on two bitterly fought public vs. private power issues.

The public power proponents won their battle to provide funds for construction of an all-federal transmission system for the Upper Colorado project in the Mountain West. (See p. 1864)

Private power proponents won their battle to prevent federal construction of electric generating facilities in the Hanford, Wash., plutonium reactor. (See below)

These two legislative showdowns in the past Congressional session presaged increasing conflicts over power issues in Congress in the years ahead. The Kennedy Administration has abandoned the Eisenhower Administration's "partnership" role with private industry in the development of power resources. The Kennedy Administration is stressing a much more dominant federal role and increased cooperation with public agencies and rural cooperatives in the development of the nation's power resources. This new power policy is viewed with a mixture of alarm and outright opposition by the private utility industry and with skepticism by the coal interests.

Hanford Battle

When Charles F. Luce, Walla Walla, Wash., attorney, became Bonneville Power Administrator on Feb. 15, he said the Bonneville Power Administration would give "all possible support" to a proposal long favored by the Democrats on the Joint Atomic Energy Committee to install electric generating facilities at the Hanford reactor. This was a major change in BPA policy. Authorized in 1958, the $145 million New Production Reactor at Hanford is being built by the Atomic Energy Commission primarily to produce plutonium for nuclear weapons. But it was designed so that it could be converted to dual-purpose operation to produce power as well as plutonium. Congress had already appropriated $25 million for the Hanford convertibility features in 1958.

President Kennedy on March 28 asked Congress for authority and funds to complete the conversion of Hanford into a dual-purpose reactor. An additional $95 million was needed for the conversion. Mr. Kennedy asked for that authority in the 1961 AEC authorization. He also asked for $60 million in fiscal year 1962 for engineering and to cover purchase orders for the two turbine generators and heat exchangers. The plan was to complete Hanford as a plutonium reactor in October 1962, operate it for two years on a plutonium-only basis, and operate it after October 1964 for the two purposes of producing plutonium and electricity.

The proposal would have made Hanford the world's largest power-producing reactor. Studies carried on by AEC, BPA, the Federal Power Commission, the Corps of Army Engineers and General Electric Co., the Hanford contractor, indicated that the dual-purpose reactor proposal was feasible. The reactor would be cooled by steam in a closed circuit system. Studies indicated it would be economical to use the steam to run turbines and generators to produce electricity.

The plan was for BPA to market Hanford-produced electricity. Currently, according to Luce, BPA has 400,000 kilowatts of power valued at $11 million going unsold annually because the law under which BPA operates makes it impossible for BPA to contract to sell short-term firm power to private utilities and industries. If BPA were assured that Hanford steam power were going on the line in 1964, it could proceed at once to sell 400,000 kilowatts of firm power annually under long-term 10-year contracts.

Hanford power also would meet the anticipated need of the Pacific Northwest for additional firm power requirements by 1965-66, by adding some 750,000 firm kilowatts to the BPA system. Hanford power would have been sold at the same rate as other Bonneville power (mostly hydro), $17.50 per kilowatt year delivered, a rate established in 1938 -- one of the cheapest in the nation -- and therefore very attractive to potential new industry.

Committee Hearings

The Joint Atomic Energy Committee on May 17-18 held hearings on the Hanford proposal. AEC and BPA witnesses outlined the proposal to the committee and gave it strong support. Other support for Hanford came from Interior Secretary Stewart L. Udall, the American Public Power Association, the National Rural Electric Cooperative Association, the Northwest Public Power Association, Inc., AFL-CIO, and many other pro-public power groups.

The first indication of the substantial opposition building up against Hanford was contained in a statement of the Chamber of Commerce of the United States filed with the Committee on May 10. Noting that the Pacific Northwest is currently a power surplus area, the Chamber questioned whether the area could absorb 800,000 kilowatts from Hanford in addition to 2.6 million kilowatts of power under the United States-Canada Treaty on the Development of the Columbia River. The power would have to be transmitted to another market area, according to the Chamber. The Chamber said the Hanford proposal would thus "set up a situation in which nation-wide federally constructed transmission interties would become much more plausible"; would set a precedent for the construction of the first federally built steam-plant outside of the Tennessee Valley Authority area; and would sell low-cost power in competition "with investor-owned, tax-paying electric utilities." The National Association of Manufacturers took a similar position.

The Edison Electric Institute, in a letter of May 16, said the 192 private utilities holding membership in EEI opposed Hanford generating facilities. EEI said that "the expenditures of money for generating facilities to utilize the low-temperature, low-pressure steam

available" from the Hanford reactor would not be economic and would not advance the nation's nuclear power development program. "Furthermore," EEI stated, "we believe that the building and operating of any thermal plant for the production of power for sale to the public by the federal government is contrary to the public interest and American principles."

Report Backs Hanford

The Joint Committee on June 21 reported HR 7576 authorizing funds for AEC for fiscal 1962, including the $95 million authorization for the Hanford generating facilities. The committee majority report favored steam generation of power at Hanford because: it would permit "the utilization of otherwise wasted heat for electric power production on an economic basis" and would lower the cost of producing plutonium by one-third; it would aid national defense by assuring the operation of the plant at Hanford either to produce power or plutonium or both; it would increase the United States' international prestige as a nuclear power by the construction of the world's largest power-producing reactor; it would provide technological benefits as the nation's first dual-purpose plutonium reactor; it would provide additional power to the Pacific Northwest utilities and industries under long-term 10-year contracts.

Minority Report

Five Republican members of the 18-member Joint Committee, Sen. Bourke B. Hickenlooper (Iowa), Sen. Wallace F. Bennett (Utah), Reps. James E. Van Zandt (Pa.), Craig Hosmer (Calif.) and William H. Bates (Mass.), filed a long minority report in opposition. The minority report said that the Hanford authorization would be contrary to legislative history, and "to the spirit, intent and specific language" of Section 44 of the Atomic Energy Act of 1954 restricting AEC from selling energy for commercial use; the dual-purpose reactor, as such, would not aid national defense or nuclear technology; Hanford power was not needed to meet power requirements in the Pacific Northwest now or in the immediate future; it provided no legal guarantee to sell power to private utilities and private industry; it would produce highly subsidized power which would be used to attract industry from other regions of higher-cost power; it would be used to justify the later construction of "a gigantic federal electic power grid"; it would be cheaper for the government to buy power from BPA to service the Hanford reactor at 2.5 mills per kilowatt hour than to produce power at Hanford at a cost of 3.7 to 5 mills KWH; it would produce only low-pressure saturated steam in an obsolete type of nuclear power plant which would not enhance our international prestige; and it would constitute a precedent for further encroachment of government in business.

The committee minority concluded: "Congress must squarely face up to the issue of whether the Atomic Energy Commission is to take its place alongside the Department of Interior and TVA as a major producer of government-generated electrical power. This is a crucial question of national policy which must be debated and resolved by this Congress.... Up to this time Congress has been scrupulous to assure that such plants were not constructed outside the rigidly defined TVA area. We submit that the precedent that would be established here is a most dangerous one."

The House Republican Policy Committee on July 11 announced its formal opposition to the Hanford authorization, but on July 13 the five Republican members of the State of Washington's House delegation announced that they were backing the Hanford dual-purpose reactor proposal.

Rejection in House

The House rejected the Hanford authorization three times. The first time was on July 13. The House accepted by a teller vote, 176-140, an amendment by Van Zandt to delete the Hanford authorization. (Weekly Report p. 1257)

Chairman Chet Holifield (D Calif.) of the Joint Atomic Energy Committee told the House, "Now, if you want an economy vote, here is an economy vote." The generating facilities at Hanford would be repaid with interest, he said, and the steam from the reactor would be utilized. "You can blow the heat into the air, you can turn it into the Columbia river and heat the....river, or you can run it through a generator and produce.... 800,000 kilowatt hours of electricity," Holifield said. Holifield charged that private utilities were "taking a dog-in-the manger attitude" toward the Hanford authorization, even though more than half of the power would go, through the BPA system, to private utilities. Rep. Robert E. Jones (D Ala.) said failure to utilize Hanford's 11 million pounds of steam an hour "would be regarded by people everywhere as an incredible extravagance."

Van Zandt said the Hanford steamplant presented "to this Congress a crucial question of national policy.... Should we put the Atomic Energy Commission in the power business." He recalled that TVA started out as a small operation utilizing hydro power. "Today this Authority has the largest power system in our country and hydroelectric power....is now incidental to the tremendous thermal electric installations" of TVA, Van Zandt said. "What assurance do we have that Hanford will not be the precedent on which a federal nuclear power system will be built?" he asked. Hosmer, Reps. Ben F. Jensen (R Iowa) and Frank J. Becker (R N.Y.) questioned the feasibility of the project. Becker said that Hanford would "produce 135-235 pounds of pressure" in an old-fashioned power plant, at taxpayers' expense, "when private utilities are building plants that will produce from 2,400 to 3,500 pounds of pressure, not at taxpayers' expense." Rep. Cleveland M. Bailey (D W.Va.) said that 800,000 kilowatts of Hanford power represented "an equivalent consumption of well over 2 million tons of coal a year, and would have an adverse effect on both coal-mining and railroad employment."

Senate Restores Authorization

The Senate on July 18 kept the Hanford authorization in HR 7576. It rejected an amendment by Hickenlooper, by a 36-54 roll-call vote, to delete the $95 million Hanford authorization. Twenty-five Republicans and 11 Democrats voted for the amendment; 48 Democrats and 6 Republicans against it. (Weekly Report p. 1257)

The debate centered around the feasibility and value of the project and whether or not it would set a precedent. Sen. Henry M. Jackson (D Wash.) said that "every competent and objective authority who has studied this matter believes that it makes economic, technical and political sense to add electric generating facilities" to the Hanford reactor. "Two groups only -- the private power lobby....

and the coal mining interests are fighting it," Jackson stated. "The coal mining lobby appears to be making a general argument against all development of atomic power upon the grounds it may interfere with coal production -- a proposition most of us are unlikely to accept," he stated. Jackson said as a dual-purpose reactor, Hanford would "be both a plowshare and a sword. Its operation would be of advantage to both the common defense and our peacetime economy," Jackson stated.

Sens. John O. Pastore, (D R.I.), Wayne Morse (D Ore.) and Jennings Randolph (D W.Va.) saw great advantages in the use of Hanford's steam for the economic development of the Pacific Northwest. "The question is," Pastore stated, "will we spend $95 million or will we lose 11 million pounds of steam per hour? I say that we should not waste good resources. I say we should put the steam to work. Let us make the electricity, and let America grow." Randolph said Hanford generating facilities would not displace coal mined in the East.

Hickenlooper and Bennett said the Hanford authorization would set a precedent. "This is the first step toward putting the Atomic Energy Commission into a business that it never was intended it should be in," Hickenlooper stated. Steam is not recaptured in many reactors in this country because it is uneconomic to do so, Hickenlooper told the Senate. The attempt to do so at Hanford "would make the plant as antiquated as a model T Ford," he said. Bennett compared the Hanford proposal to that of building "the biggest model-T factory in the world in 1961." He called the proposal an "outdated, antiquated, inefficient 800,000 kilowatt teakettle" which would "make us the technological laughing-stock in the world." And Hickenlooper said that General Electric, the AEC contractor at Hanford, had written to AEC Feb. 17 indicating that it did not want to undertake beyond a transition period the "operation of electrical facilities....to generate at....energy levels significantly above the Hanford electrical load."

Coal Research Amendment

Following rejection of Hickenlooper's amendment, the Senate by voice vote agreed on an amendment of Sens. Randolph, Robert C. Byrd (D W.Va.) and Joseph S. Clark (D Pa.) authorizing AEC to spend $5 million for the study, development and design of nuclear processes "which have application for improving and utilizing coal and coal products." Randolph said AEC's efforts to date "to further coal research are inadequate."

The so-called Randolph amendment caused an uproar in coal circles, following press reports that it had been added to HR 7576 to get the coal interests to support the Hanford authorization.

The National Coal Association on July 21 announced its "unequivocal opposition" to the Hanford authorization. NCA President Stephen F. Dunn said: "In the light of the implication....that our organization and its members have been involved in some kind of a barter arrangement I want to make it perfectly clear that we are unequivocally opposed to the production of electrical energy for commercial use at the Hanford, Wash., plant.... We recommend that the atomic coal research program be deleted from the legislation and considered by Congress on its merits when appropriate," Dunn stated. The United Mine Workers Journal also came out formally in opposition to Hanford generators following the Senate action.

Randolph on July 24 issued a statement criticizing NCA for opposing his amendment. "I am not a party to any 'barter arrangement' linking together coal research and authorization for electric power production from nuclear reactor heat at the Hanford project. Insofar as I am concerned, each item stands on its own position of validity -- and I consider each to be valid and in the public interest," Randolph stated.

Conference Objection

House Republican Leader Charles A. Halleck (R Ind.) on July 25 objected to sending HR 7576 to conference committee, when Holifield sought unanimous consent to do so. As the Senate had kept the Hanford authorization in the bill over the objection of the House, the Senate should request the conference, Halleck said. That would put the House in a parliamentary position to act first on the conference report. If the Senate acted first on the conference report, Halleck said, the House would be faced with a take-it-or-leave-it proposition on the entire measure, as had happened several times in 1961 on conference reports. Halleck's action required the approval of the House Rules Committee to send the bill to conference, and the Committee on Aug. 3 granted a rule (H Res 404) to do so.

Criticism of Private Utilities

Sen. Clinton P. Anderson (D N.M.) on Aug. 3 delivered a blistering attack on the private power industry for opposing Hanford generating facilities. He told the Senate that the Hanford project had been "made the victim of one of the most outrageous lobbying efforts that I have ever witnessed.... Pressure has been put on the coal industry which is seemingly dependent on the private utilities. Pressure is being put on the atomic equipment companies" by private utilities operating in the East and South. He said that the Administration and Congress should investigate why so-called atomic partnership projects are faltering, even though private utilities have received nearly $100 million in direct federal financial assistance to build nuclear reactors.

Noting that a number of members of the Edison Electric Institute Committee on Atomic Power had opposed the Hanford authorization even though their companies had been "the recipients of AEC financial largesse," Anderson said, "We would want to find out whether these men really are for atomic power, or are they the front men for a gigantic conspiracy to slow down new (atomic) developments." Anderson suggested that "we should consider withholding all new funds for 1962, as well as freezing all funds from past years which are uncommitted" under the AEC cooperative power reactor demonstration program in which private utilities are participating with federal aid.

Holifield on Aug. 7 made a similar attack on the private utilities. He charged that "from the very start they have used every means possible to fasten a patent monopoly on the atomic-electric development, in league with most of their machinery suppliers.... They were responsible for the defeat of the Gore-Holifield bill in 1956 which would have built reactors in several areas of technological need." Now they are opposed to the Hanford generators, he noted. "I warn the private-owned utilities to guard their luscious bone of captive customers, non-competitive franchises, guaranteed profits and rapid

amortization. In their dog-in-the-manager selfishness, they might start a train of events which could result in the loss of the luscious bone they now have!" Holifield stated.

Subsequently, acting on complaints from members of the Joint Atomic Energy Committee, staff investigators from the Senate Anti-Trust Subcommittee headed by Sen. Estes Kefauver (D Tenn.) investigated the files of and talked to officials of the National Coal Association, the National Association of Electric Companies, and General Electric.

House Reaffirms Stand

The House on Aug. 8 voted to instruct the House conferees to oppose the Hanford generating facilities. Following adoption by voice vote of H Res 404 to send HR 7576 to conference, the House rejected by a 164-235 (D 155-81; R 9-154) roll-call vote a motion by Rep. Clarence Cannon, (D Mo.) to table a motion by Van Zandt to instruct the House conferees not to agree to the Senate amendment authorizing $95 million to build the two 400,000 kilowatt generators into the Hanford reactor. The Van Zandt motion was then agreed to by a 235-164 (D 81-155, R 154-9) roll call. (Weekly Report p. 1381)

Van Zandt told the House, "We hear of the threat of an investigation by Congress of the so-called private power and coal lobby. Yet nothing is being said about the lobbying tactics by the proponents of the Hanford steam plant, including the champions for the construction of federal transmission lines leading to the construction of a giant national electric power grid. These dire threats reveal the anxiety and frenzy of the proponents of the $95 million Hanford steamplant in trying to deny the membership of the House its right to oppose this project." Bates and Hosmer ridiculed letters which the House members had received indicating that some technical assumptions bearing on the dual-purpose reactor's feasibility had been revised by AEC. Bates called it "a last ditch effort (which) is an admission of weakness."

But Holifield and Rep. Melvin Price (D Ill.), the prospective House Democratic conferees, said the AEC review showed that "the economic feasibility of the project is almost twice as great as originally estimated." Cannon noted that the Soviet Union had compiled a lot of firsts in science since the United States pioneered with the first atomic bomb. "We....can establish the largest nuclear power plant in the world," by authorizing the Hanford power plant. Cannon stated.

One-Generator Compromise

By a 6-2 vote the Senate-House conferees on Aug. 31 agreed to authorize the construction of only one 400,000 kilowatt generator at Hanford at a cost of $58 million. They wrote into the conference report a provision that the electricity generated at Hanford "shall be used exclusively by the Commission in connection with the operation of the Hanford, Wash., installation." In a statement on the part of the House conferees, Holifield and Price declared that the compromise would eliminate the question of putting AEC into "the commercial power business." The dual-purpose reactor was still feasible under the compromise, according to the conference committee. The Senate on Sept. 5 agreed to the conference report on HR 7576.

But the House on Sept. 15 rejected the conference report by a vote of 156-252 (D 144-97; R 12-155) because it included the $58 million Hanford authorization. (Weekly Report p. 1578) As on preceding votes, many Democrats from coal states joined Republicans and conservative Southern Democrats in opposition to the Hanford authorization.

Van Zandt and Hickenlooper had voted against the compromise, and Van Zandt sent a letter to all House members calling the compromise a "complete capitulation" to the Senate on the Hanford issue. Van Zandt told the House the compromise was merely a "new, bobtailed version" of the original proposal which the Senate would continue to press "on the installment plan" by securing approval of one generator this year and the second one later.

Holifield said that "not one kilowatt" from the single Hanford generator would go "into the commercial market." It would provide no competition with "coal, oil, or with private power," Holifield said.

Randolph Amendment Omitted

Although all three of the House conferees had agreed to accept the Randolph coal research amendment, it was automatically eliminated from HR 7576 by the House rejection of the conference report. The Senate Sept. 15 passed HR 7576 after receding from both the Hanford and coal research amendments.

As HR 7576 went to the White House, it included provisions for $34 million in federal grants and fuel subsidies to private utilities building atomic reactors. But on the recommendation of the Senate Appropriations Committee, the Congress cut $7 million out of the 1962 Public Works Appropriations bill (HR 9076) in new funds requested by AEC for research and development grants to atomic power projects sponsored by private utilities.

Transmission Lines

For a second time in six years, after Congress initially sidestepped a public vs. private power battle in authorizing a major reclamation project, it subsequently resolved the power issue in favor of all-federal construction of the basic transmission system.

The first postponement on a decision on power facilities was in 1955 when Congress authorized the $225 million Trinity River reclamation project in California's Central Valley. (1955 Almanac, p. 446) PL 84-386 contained a provision directing the Secretary of Interior to negotiate "with any non-federal agency with respect to proposals to purchase falling water and....report the results of such negotiations, including terms of a proposed agreement....together with his recommendations thereon" within 18 months after enactment of the law. Former Interior Secretary Fred A. Seaton Feb. 13, 1957, recommended to Congress that it approve a "partnership" proposal of Pacific Gas & Electric Company to build three major power plants and the necessary transmission facilities in the Trinity power system. Legislation implementing Seaton's recommendation died in the House Interior and Insular Affairs Committee in 1958, largely because of all-out opposition to the PG&E "partnership" plan by the then Committee Chairman, Clair Engle (D Calif.), now a Senator. (1957 Weekly Report p. 1019). Congress in 1959 voted funds to start construction of the Trinity power plants by the Bureau of Reclamation, and the Eisenhower Administration in 1960 finally

requested funds for federal construction of the Trinity transmission lines.

Congress similarly postponed a decision in 1956 on the power facilities of the $760 million Upper Colorado river storage project at the time the project was authorized. (1956 Almanac p. 408) PL 84-485 did not include a provision as to how the power facilities should be constructed. But a report of the House Interior and Insular Affairs Committee in 1955 (H Rept 1087, 84th Congress, 1st session) on the Upper Colorado bill stated: "Representatives of 10 private power companies operating in the area presented testimony before the Committee indicating their desire to cooperate with the federal government in the transmission and marketing of electric power and energy from the Colorado River storage project.... The proposal is consistent with the policy expressed by the Congress for many years in appropriation acts and elsewhere, whereby the Federal Government builds the basic backbone transmission system and the distribution is made through existing systems where satisfactory arrangements can be worked out.... The Committee expects the proposal by the private power companies....to be carefully considered by the Department of the Interior, and the electric power and energy of the project to be marketed, as far as possible, through the facilities of the electric utilities operating in the area, provided, of course, that the power preference laws are complied with and project repayment and consumer power rates are not adversely affected."

Utilities' Proposal

Five Colorado River Basin utilities, Arizona Public Service Company, Public Service Company of Colorado, Pacific Power & Light Company (Wyoming Division), Public Service Company of New Mexico, and Utah Power & Light Company Oct. 1, 1959 submitted an offer to build most of the Upper Colorado transmission lines. They submitted their proposed wheeling (moving of power) rates in separate letters dated April 4-11, 1960. There were several modifications of both proposals and rates later. Basically, the utility offer provided for the construction of a combination system under which they would build about two-thirds of the total lineage, and the Federal Government would build the remaining one-third in thinly populated areas. About 3,000 miles of transmission lines must be built to transmit Upper Colorado power to marketing areas.

The Bureau of Reclamation evaluated the utility proposal against a "yardstick" system assuming all-federal construction. Reclamation Commissioner Floyd E. Dominy Nov. 30, 1960, recommended to Seaton that the utilities' offer be rejected in favor of construction of the all-federal transmission system. Seaton Jan. 16, 1961, approved Dominy's recommendation. Seaton agreed with Dominy's conclusion that "if the utility proposal is accepted and power sold at the same rates, the project could not meet the payout requirements of the authorizing act. Consequently, if the proposal is accepted, the power sold must produce larger revenues than would be the case under the all-federal system." Bureau of Reclamation findings indicated that power could be sold at 6 mills per kilowatt hour, on the average, under the all-federal transmission system, but it would have to be sold at 6.57 mills KWH under the utilities' proposal. Interior Secretary Stewart L. Udall Feb. 3 reaffirmed Seaton's decision in favor of the all-federal Upper Colorado transmission system. The Kennedy Administration on March 24 asked Congress to appropriate $13,673,000 in 1962 fiscal year to start construction of the all-federal transmission system.

Attempt to Block Funds

The five area utilities, backed by the National Association of Electric Companies, decided to try to block $4,225,000 of the 1962 budget request to start federal construction on seven controversial lines in the five-state area which, they claimed, were unnecessary or would ultimately duplicate private utility lines that would be built in the area. Representatives of the area utilities testified June 6 before the House Appropriations Committee and Sept. 15 before the Senate Appropriations Committees urging Congress to nullify the decisions of Seaton and Udall and to permit construction of the "combination system."

The utilities claimed that the combination system would save $186 million in federal construction costs and interest over a 50-year period; provide service under the six-mill rate, contrary to the finding of the Bureau of Reclamation, and much higher revenues than the all-federal system to pay out the cost of the project six to seven years sooner, with the balance going into the basin fund to finance new irrigation projects; would pay out $105 million in federal taxes and $184 million in state and local taxes in the five-state area over the 86-year period necessary to repay total project costs; and provide more efficient service and better interconnections than the all-federal system.

Seaton had announced May 18, 1960, criteria for marketing project power which, in effect, assured that the entire 1,229,000-kilowatt generating capacity of the Upper Colorado project would go solely to preference customers in the Colorado river area, chiefly in Colorado, Utah, Wyoming, New Mexico and Arizona. Preference customers are federal agencies, publicly-owned power systems and electric districts and rural cooperatives which have first call, by law, on all federally-generated power. Preference customers claiming to represent 155 such groups and 30 percent of the population in the five-state area formed an effective lobby known as the Colorado River Basin Consumers Power, Inc., to back the all-federal system, which assured them a lower power rate than the combination plan, according to the Bureau of Reclamation.

Witnesses for the Bureau of Reclamation and the Colorado River Basin Consumers Power Inc., testified on May 22, June 6, and Sept. 14-15 before the House and Senate Appropriations committees in support of the full 1962 budget request for the all-federal system. Their testimony was similar. Bureau of Reclamation witnesses claimed that:

- The utility lines would operate like "toll gates" which the utilities would control and from which the utilities would collect wheeling rates for the entire life of the Upper Colorado storage project, whereas the all-federal power system would be paid out in 44 years and would always be under the Bureau's control.
- The entire all-federal system to be built by the Bureau of Reclamation would cost only $176 million, whereas under the combination system backed by the utilities, the Bureau would still have to build $52 million of the most costly lines in the most remote areas.

(Because the utilities did not offer to build the lines in the most remote areas, they were left open to the charge by their opponents that they sought to "cream off" the revenues from only the lucrative lines.)

● The all-federal system would make up in lower-cost power to preference customers for the taxes foregone under the utilities' proposal.

* The all-federal system would be intertied with other federal power systems operated by the Bureau of Reclamation including the Hoover-Parker-Davis dams in the Lower Colorado River Basin, the Missouri Basin and Rio Grande Basin power systems and with the Pacific Northwest power pool.

● The private utilities would build most of the lines contemplated in the combination system anyway, even, if they were not permitted to wheel Upper Colorado power, because of the rapid population growth in the entire area in the next 20 years.

House Action

Attempts to block $4,225,000 in funds for the seven controversial lines failed Aug. 31 in the House Public Works Subcommittee by a 7-5 vote and Sept. 6 in the House Appropriations Committee by a 27-17 vote. An amendment by Rep. Ben F. Jensen (R Iowa) to strike out funds for the seven controversial lines was rejected on a 114-135 teller vote in the House Sept. 12. Jensen's motion to recommit HR 9076 to committee to delete funds for the seven controversial lines was rejected in the House on a 182-225 (D 41-202; R 141-23) roll-call vote Sept. 13. The Jensen recommittal motion had been made a party-line issue Sept. 6 by the House Republican Policy Committee and, of the 23 Republicans who voted against it, 14 were from reclamation states. (Weekly Report p.1570)

Chairman Clarence Cannon (D Mo.) of the House Appropriations Committee and Chairman Michael J. Kirwan (D Ohio) of the Interior Department Subcommittee of the House Appropriations Committee opposed the Jensen amendment and recommittal motion on the grounds that the five area utilities were attempting to "muscle in" on the power revenues from the project. Cannon and Rep. Joe L. Evins (D Tenn.) said that the all-federal system could be built at less cost to the taxpayer and provide lower-cost power to the preference customers than the utilities' proposal. Rep. Wayne N. Aspinall (D Colo.) said that the Bureau of Reclamation has been building the power facilities into reclamation projects for the past 30 years, so this was no departure from long-standing policy. Cannon concluded the debate by reading a statement from the President urging support for the full appropriation.

Jensen and Rep. John J. Rhodes (R Ariz.) backed the Jensen amendment and motion to recommit on the grounds that the utilities' plan would provide better service at less cost to the taxpayer. Jensen, Reps. Ivor D. Fenton (R Pa.), Robert H. Michel (R Ill.), Donald C. Bruce (R Ind.) and Frank J. Becker (R N.Y.) said they feared the all-federal Upper Colorado transmission system would be a springboard for an all-federal power system. Fenton and Michel claimed the all federal system would provide subsidized power to a privileged minority of power users in the area, the preference customers. Jensen and Rhodes also claimed that the power issue involved the question of preserving the tax-paying private enterprise system.

Senate Committee Action

In reporting HR 9076 Sept. 20, the Senate Appropriations Committee allowed the full $13,673,000 appropriation for the all-federal Upper Colorado transmission system. But, by a vote of 12-10 the Committee agreed to a motion by Sen. John L. McClellan (D Ark.) to write restrictive language into the Committee report (S Rept 1097). It directed the funds to be used only for construction of three non-controversial lines and further stated:

"With respect to any other lines, it is the desire of the Committee that the Bureau of Reclamation and the utility companies in the area concerned enter into wheeling agreements to the advantage of the federal government and the preferred customers for the transmission of power from the Upper Colorado storage project. The Committee therefore directs the Secretary of the Interior and the Bureau of Reclamation to exhaust every possible effort to obtain proper wheeling agreements to accomplish the purposes of these lines and to report back to the Senate and House Appropriations Committees no later than Feb. 15 (1962) on the progress made in negotiating such contracts.

"In view of the schedule for completion of power facilities in the Colorado project, the period specified for the negotiation of wheeling contracts will not in any way delay the marketing of power. The Committee knows of no valid reason why agreements cannot be obtained in this area similar to those that have proven so satisfactory to the federal government and its customers in the Southeastern and Southwestern Power Administrations." McClellan said the committee had put similar restrictive language into its committee reports in preceding years to prod federal administrative agencies and the private utilities to enter into wheeling agreements.

Conference Report

Because the restrictive language was not in the bill itself, and because Chairman Carl Hayden (D Ariz.) of the Senate Appropriations Committee wanted to handle the matter in conference committee, no move was made to amend HR 9076 when it passed the Senate relative to the Upper Colorado transmission lines. But Sens. Warren G. Magnuson (D Wash.), Clinton P. Anderson (D N.M.) and John A. Carroll (D Colo.) attacked the restrictive language in the committee report as "handcuffing" the Secretary of Interior and the Bureau of Reclamation. They strongly recommended that it be nullified in conference. It was.

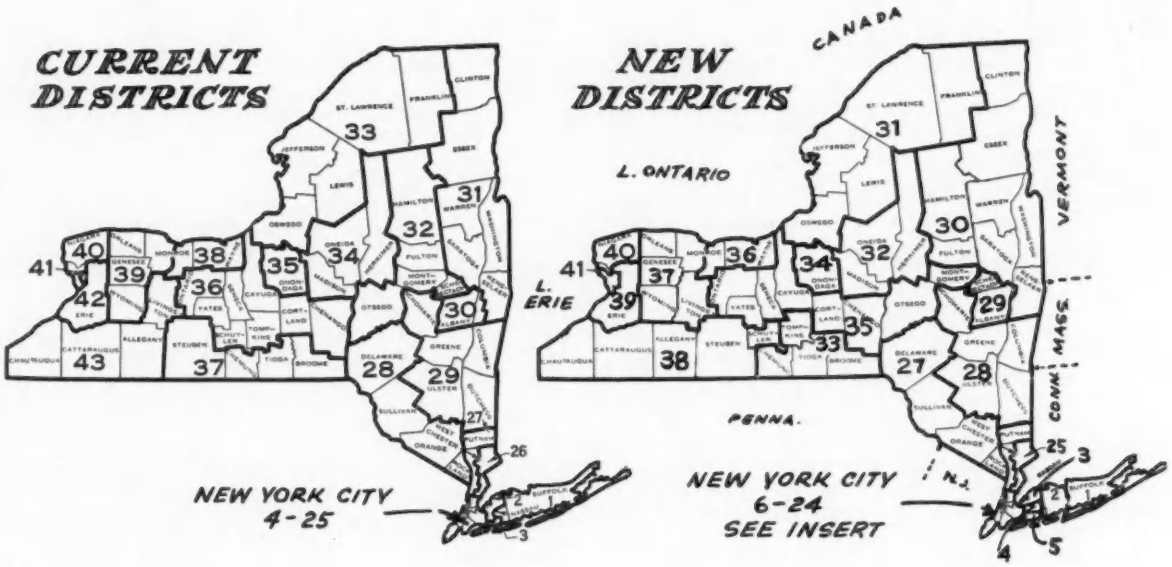
By a vote of 3-2 on the part of the House conferees and by a vote of 8-4 on the part of the Senate conferees, the conferees Sept. 25 adopted language in the conference report (H Rept 1268) on HR 9076 relative to the Upper Colorado project which read as follows:

"The conferees on the part of both Houses are in agreement that planning and construction of the transmission lines for the Colorado River storage project shall proceed as provided for in the budget presentation and in the bill as it passed the House, unless the Secretary of Interior finds it practicable and in the national interest to enter into wheeling agreements with private power interests."

Udall said Sept. 26 Interior would "proceed forthwith" to construct the basic backbone transmission lines in the Upper Colorado system.

CQ Redistricting Report

New York - Two Seat Loss



BRUSHING aside Democratic cries of "gerrymander" and "political murder," the Republican-controlled New York Legislature Nov. 10 debated and gave quick approval to a GOP-sponsored Congressional redistricting plan which observers believed would cause the defeat of at least six incumbent Democratic Congressmen in the 1962 elections.

The redistricting legislation, which carved the state into 41 districts in place of the current 43, passed the Senate on a straight 33-25 party line vote and the Assembly by a 76-70 vote, the constitutional minimum for passage, with five upstate Republicans joining the solid Democratic opposition. Gov. Nelson A. Rockefeller (R) signed the bill later Nov. 10 without comment.

New York's population grew 1,952,112 (13.2 percent) between 1950, when it was 14,830,192, and 1960, when it reached 16,782,304. The 13.2 percent growth figure was sufficiently below the national average growth figure of 18.5 percent to cause New York to lose two seats under the Census apportionment.

The most likely result of the Congressional redistricting bill would appear to be a shift in the Congressional delegation from its current 22-21 balance in favor of the Democrats to a new balance of approximately 25 Republicans, 16 Democrats -- a net Republican gain of four combined with a net Democratic loss of six. (See Political Line-Up, below).

An examination of the new district lines revealed unique examples in the art of the gerrymander. One, the new 35th District stretched across the greater part of the breadth of upstate New York, a dragon-like head hanging over Albany in the East and a tail reaching for Rochester in the West. Brooklyn gained two odd creatures: one, the new 15th, with his rear quarters in the Narrows and his head near the East River; another, the new 16th, with his head in central Brooklyn and body on Staten Island. The Bronx and Queens also contained strangely contorted districts.

On one count, however, the New York redistricters avoided serious criticism. All 41 new districts, without exception, were within 15 percent of the average population figure (409,324) for the state. By contrast, the Democratic-sponsored California redistricting bill, approved in June 1961, included variations as great as 43.1 percent above and 27.2 percent below that state's average. (Weekly Report p. 1281) Other variations in Democratic-sponsored redistricting bills passed in 1961 were as high as 62.2 percent (Maryland), 60.1 percent (Florida) and 32.9 percent (North Carolina.) (Weekly Report p. 437, 954, 1178)

New York Republicans made as much mileage as possible within the 15 percent limits, however. The average new Republican district in the state will have a population of 398,440 (2.7 percent below the state average) while the average Democratic district will have a population of 426,331 (4.2 percent above the state average). Thus the average Democratic Congressman will have 27,891 more constituents than his Republican colleague. In New York City, Republicans assigned themselves the districts with the smallest (and presumably most Republican) population in each borough.

Reflecting population movements during the past decade, New York City lost three, Long Island gained two and Upstate lost one Congressman under the redistricting. The new totals will be: New York City with 7,781,984 population, 19 districts; Long Island with 1,966,955 population, 5 districts; Upstate with 7,033,365 population, 17 districts. The average district population figures: New

York City 409,578, Long Island 393,391; Upstate 413,727. Democrats charged that the new bill would be inimicable to New York City's interests. Republicans answered that the bill merely reflected population movements "including the large exodus of men, women and children out of New York City to the better-governed Republican suburbs."

The Legislature's Joint Legislative Committee on Reapportionment, which drew up the redistricting bill, declined to hold any public hearings on redistricting before or during the special session which met Nov. 9. Committee chairman Robert C. McEwen (R), a state Senator from upstate St. Lawrence County, Oct. 3 said public hearings were not required because "reapportionment is a strictly technical subject."

The Republican State Committee played a central part in major decisions on upstate redistricting. New York City districts were drawn up by the Republican organizations in each of the boroughs.

New York Mayor Robert F. Wagner (D) Nov. 2 charged the Republicans were planning a gerrymander which he said would amount to a "conspiracy to make a wholesale purge of supporters of President Kennedy's program in Congress." Senate Minority Leader Joseph Zaretzki (D Manhattan) Nov. 7 said the Republicans were planning "the worst gerrymandering plot of the state's history."

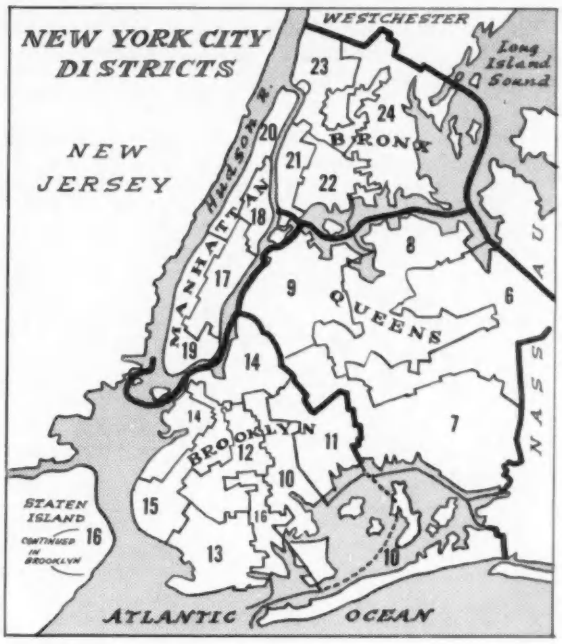
A minor revolt developed among upstate Republicans on the opening day of the session when a nose count showed the bill was three votes short of the 76 constitutionally required for Assembly passage. Assembly Speaker Joseph F. Carlino (R Long Beach) then proceeded to round up the votes required. Gov. Rockefeller, who had taken no public stand on the redistricting issue (he called it a "legislative matter"), visited Carlino's office the morning of the debate and reports differed as to whether his direct influence was needed to bring some GOP legislators into line.

Democrats sought throughout the debate to identify Rockefeller with the bill, which they called a "Rockymander." Republicans hotly denied any direct gubernatorial involvement. Senate Majority Leader Walter Mahoney (R Buffalo) Nov. 10 said the bill "was drafted without any consultation with Gov. Rockefeller or anyone in his office.... There were never any suggestions from the Governor's office."

In signing the bill Rockefeller did not follow his usual custom of issuing a memorandum containing his reason when a measure is highly controversial. He also declined to pose for photographs when he signed the bill.

Legislative, Judicial Challenges

Rep. Emanuel Celler (D N.Y. - Brooklyn), Chairman of the House Judiciary Committee, Nov. 15 said he would call on Congress to enact his bill (HR 4068) requiring that all districts be contiguous and compact and within 20 percent of the average population, in order to nullify the GOP "shenanigans." Celler said the Republican plan was "conceived in secrecy, passed with uttermost haste, and presented to the public as cut and dried without so much as noblesse oblige." The Celler bill, which has been introduced in several past Congresses, has never been approved by his own Judiciary Committee. If passed, the bill would be more likely to upset the new California redistricting bill than the New York measure, because the 20 percent maximum variation, which the



New York law observes but the California law violates in several instances, would presumably be easier for the courts to apply than the less exact criterion of compactness.

Mayor Wagner Nov. 15 said he had directed New York City Corporation Counsel Leo A. Larkin to prepare a citizen's suit, with Wagner as plaintiff, challenging the constitutionality of the new Congressional district lines on the basis of the 14th Amendment's guarantees of equal protection under the laws. Larkin, who must decide in what court to file such a suit, is waiting to see how the U.S. Supreme Court decides the current Tennessee redistricting case (Baker v. Carr - Weekly Report p. 531, 1721) before taking action. In his Nov. 15 television broadcast Wagner pointed to the small population (349,850) of the prospectively Republican new 15th District in Brooklyn, compared to the high population (469,908) of the adjacent solidly Democratic 12th District. "What this means," Wagner said, "is that when it comes to votes in Congress on the social and economic issues of our time, three Republicans in the (15th) District will have the representation of four Democrats in the (12th) District."

Reapportionment Committee chairman McEwen said Wagner was "engaging in another of his politically dishonest grandstand publicity gimmicks."

National Repercussions

The dispute over New York redistricting reached the national stage Nov. 13 when Democratic National Chairman John M. Bailey called a news conference at which he assailed Rockefeller's role in the redistricting as "an example of political larcency in the robber baron tradition. Your grand dad would have proud of you, Nelson," Bailey said. Warning of possible danger to the

(Continued on p. 1871)

NEW YORK STATE CONGRESSIONAL DISTRICTS

CURRENT DISTRICTS			NEW DISTRICTS					
DISTRICT NUMBER	INCUMBENT	POPULATION*	DISTRICT NUMBER	RESIDENT INCUMBENTS	POPULATION*	VARIATION FROM AVERAGE	1960 CONGRESS VOTE† Dem. -Lib.	GOP
				Long Island Districts				
1	Otis G. Pike (D)	906,187	1	Pike (D)[1]	398,254	- 2.7%	49.2%	50.8%
2	Steven B. Derounian (R)	506,197	2	None[1]	371,950	- 9.1	49.2	50.8
3	Frank J. Becker (R)	554,571	3	Derounian (R)	399,967	- 2.3	43.7	56.3
			4	None	394,494	- 3.6	43.8	56.2
			5	Becker (R)	402,290	- 1.7	44.7	55.3
				New York City Districts				
4	Seymour Halpern (R)	467,384						
5	Joseph P. Addabbo (D)	391,403						
6	Lester Holtzman (D)	507,685	6	Halpern (R)	416,600	+ 1.8	#	#
7	James J. Delaney (D)	372,215	7	Addabbo (D)	457,124	+11.7	#	#
8	Victor L. Anfuso (D)	356,961	8	Holtzman (D)	438,192	+ 7.1	#	#
9	Eugene J. Keogh (D)	391,239	9	Delaney (D)	426,771	+ 4.3	#	#
10	Edna F. Kelly (D)	353,782	10	Celler (D)	424,617	+ 3.7	#	#
11	Emanuel Celler (D)	411,988	11	Keogh (D)	403,628	+ 1.4	#	#
12	Hugh L. Carey (D)	316,177	12	Kelly (D)	469,908	+14.8	#	#
13	Abraham J. Multer (D)	353,313	13	Multer (D)	454,285	+11.0	#	#
14	John J. Rooney (D)	339,465	14	Anfuso (D)[2] Rooney (D)[2]	465,889	+13.8	#	#
15	John H. Ray (R)	397,276	15	Carey (D)	349,850	-14.5	#	#
16	Adam C. Powell (D)	301,574	16	Ray (R)	352,024	-14.0	#	#
17	John V. Lindsay (R)	260,235	17	Lindsay (R)	382,320	- 6.6	#	#
18	Alfred E. Santangelo (D)	269,368	18	Powell (D) Santangelo (D)[3]	431,330	+ 5.4	#	#
19	Leonard Farbstein (D)	301,499	19	Farbstein (D)[4]	445,175	+ 8.8	#	#
20	William F. Ryan (D)	279,475	20	Ryan (D)[5] Zelenko (D)	439,456	+ 7.4	#	#
21	Herbert Zelenko (D)	286,130	21	Healey (D)	361,770	-11.6	#	#
22	James C. Healey (D)	327,213	22	Gilbert (D)	355,847	- 3.1	#	#
23	Jacob H. Gilbert (D)	335,166	23	Buckley (D)	358,258	-12.5	#	#
24	Charles A. Buckley (D)	347,890	24	Fino (R)	348,940	-14.8	#	#
25	Paul A. Fino (R)	414,546						
				Upstate				
			25	Barry (R)	438,409	+ 7.1	43.7	56.3
26	Edwin B. Dooley (R)	402,204	26	Dooley (R)	402,204	- 1.7	47.4	52.6
27	Robert R. Barry (R)	438,409	27	St. George (R)	409,349	0.0	41.3	58.7
28	Katharine St. George (R)	409,349	28	Wharton (R)	396,122	- 3.2	43.3	56.7
29	J. Ernest Wharton (R)	396,122	29	O'Brien (D) Stratton (D)[6]	453,165	+10.7	63.3	36.7
30	Leo W. O'Brien (D)	339,858	30	King (R)	460,409	+12.5	42.5	57.5
31	Carleton J. King (R)	365,249	31	Kilburn (R)	353,183	-13.7	38.1	61.9
32	Samuel S. Stratton (D)	317,649	32	Pirnie (R)	385,406	- 5.8	44.7	55.3
33	Clarence E. Kilburn (R)	353,183	33	Robison (R)	415,333	+ 1.5	39.4	60.6
34	Alexander Pirnie (R)	385,406	34	Riehlman (R)	423,028	+ 3.3	46.2	53.8
35	R. Walter Riehlman (R)	423,028	35	Taber (R)	386,148	- 5.7	48.8	51.2
36	John Taber (R)	358,174	36	Weis (R)	410,943	+ 0.4	45.0	55.0
37	Howard W. Robison (R)	446,860	37	Ostertag (R)	410,432	+ 0.3	30.3	69.7
38	Jessica McC. Weis (R)	413,498	38	Goodell (R)	382,277	- 6.6	36.1	63.9
39	Harold C. Ostertag (R)	363,824	39	Pillion (R)	435,393	+ 6.4	42.0●	58.0●
40	William E. Miller (R)	473,750	40	Miller (R)	435,684	+ 6.4	43.2●	56.8●
41	Thaddeus J. Dulski (D)	332,776	41	Dulski (D)	435,880	+ 6.5	62.2●	37.8●
42	John R. Pillion (R)	500,431						
43	Charles E. Goodell (R)	313,595						

NEW STATE AVERAGE 409,324

* *Based on final official 1960 Census reports.*

† *Based on the official vote received by Democratic, Liberal and Republican party candidates within the area of the new districts. Vote on the Liberal party line is included in the combined Democratic-Liberal percentage.*

\# *The 1960 Congress vote was not available for the new districts within New York City. If any of these figures become available, they will be printed by Congressional Quarterly as a supplement to this report.*

● *Some minor estimates are included in the Buffalo area figures, but the margin of error is probably no more than one half of one percent.*

1 *The new 1st and 2nd Districts represent a division of the current 1st District with sufficient additions and subtractions of territory in Nassau County to give the GOP a theoretical plurality in both districts, despite the fact that Democrat Pike carried the current 1st District by 50.4 percent in 1960.*

2 *Either Anfuso or Rooney might choose to run in another Brooklyn district, but would be obliged to dislodge a Democratic incumbent if they did so.*

3 *Santangelo is expected to run in the new 19th District if he decides to seek re-election.*

4 *Farbstein may have primary opposition; see footnotes 3 and 5.*

5 *Ryan might choose to run in the new 19th rather than the new 20th.*

6 *Stratton might choose to run in the new 30th or the new 35th instead of the new 29th. He is also interested in the Democratic nomination for Governor.*

(Continued from p. 1869)

Kennedy legislative program because of reduced Democratic representation from New York, Bailey said that Rockefeller "and his cohorts made a bad mistake" and that the people would "make a correct judgment of the merits and demerits of this vicious trick on the voters."

Republican National Chairman William E. Miller Nov. 14 said Bailey had made "a vicious and vulgar personal attack on Gov. Nelson Rockefeller and his family" and called on President Kennedy "to repudiate it immediately." Miller said that "a few examples of real redistricting scandals that Bailey should investigate and inveigh against" might be found in Democratic-sponsored redistricting plans in Texas, Florida, California and North Carolina.

Political Line-Up

The political balance of the current New York Congressional delegation is 22 Democrats, 21 Republicans. The table below shows the postwar history of party strengths in New York Congressional seats:

Election year:	'44	'46	'48	'50	'52	'54	'56	'58	'60
Democrats elected:	22	16	24	23	16	17	17	19	22
Republicans elected:	22	28	20	22	27	26	26	24	21

The sharp rise in GOP strength in '52 may be attributed not only to Eisenhower coattail effects in that year, but to the expert gerrymanders which Republicans in control of the state government executed in 1951. The steady attrition of Republican strength in the delegation during the decade of the 1950s, culminating in the 1960 election when Democrats, aided by Kennedy coattails, moved into the lead, reflected growing Democratic strength (especially in suburban and upstate areas) plus the essentially temporary nature of any gerrymander, no matter how skillfully conceived.

At first glance, the new Republican redistricting bill would appear to ensure the GOP at least 25 seats for the entire decade of the 1960s. It is quite likely, however, that growing Democratic strength in any one of several upstate metropolitan centers, or in suburban Long Island or Westchester County, may substantially alter the balance toward the Democratic side before 1970.

The immediate Republican goal of a delegation balanced 25-16 in its favor will probably be achieved in 1962 because of the following basic changes in current districts incorporated in the new redistricting law:

1. Combining the districts of two upstate Democrats, Leo W. O'Brien and Samuel S. Stratton. Minus one Democrat.

2. Combining the districts of two Manhattan Democrats, Leonard Farbstein and William Fitts Ryan, Minus one Democrat.

3. Combining the districts of two other Manhattan Democrats, Adam Clayton Powell and Alfred E. Santangelo. Minus another Democrat.

4. Re-gerrymandering the Brooklyn district of Democrat Hugh L. Carey so that it will go Republican in 1962. Minus one Democrat, plus one Republican.

5. Combining the districts of two Brooklyn Democrats, John J. Rooney and Victor L. Anfuso. Minus another Democrat.

6. Splitting the Long Island district held by Democrat Otis G. Pike into two parts in such a way as to cause his defeat and the election of two new Republicans. Minus one Democrat, plus two Republicans.

7. Adding another Republican seat in Nassau County. Plus one Republican.

There is also a 50-50 chance that the district in Queens currently held by Joseph P. Addabbo may go Republican in 1962. Several heavily Democratic areas have been removed from it. If the Addabbo district goes Republican, the net Democratic loss will reach seven with five corresponding Republican gains. The new delegation would then consist of 26 Republicans, 15 Democrats. Observers anticipate, however, that any Republican gain in Queens would be temporary. Growing Negro population in the Addabbo district is expected to shift it permanently into the Democratic column by 1964 at the latest.

The redistricting law reinforced the Republican character of the Staten Island-Brooklyn district of Republican John H. Ray, the Bronx district of Republican Paul A. Fino, the Queens district of Republican Seymour Halpern and the Buffalo-area districts of Republicans William E. Miller and John R. Pillion. In the process of making the Miller and Pillion districts safer for the GOP, the redistricters reinforced the Democratic character of Democrat Thaddeus J. Dulski's central Buffalo district. Contrary to other reports, the redistricting bill did not strengthen the GOP character of Republican John V. Lindsay's East Side Manhattan district. The changes may actually lower Lindsay's winning percentage two or three points, but not enough to endanger him.

District Characteristics

Long Island

The 1st District (Long Island - Eastern Tip), which covers about two-thirds of Suffolk County, is an agricultural and resort area now feeling the impact of suburbia. Agriculture is still substantial in the northern portion where the last of Long Island's large potato farms are located. The resort industry is growing in the southern area. Between are mainly residential areas, with some developing industrial parks in which electronics lead. (Incumbent Pike (D); the North shore agricultural areas are expected to outweigh any Democratic strength in other areas, making the district lean Republican.)

The 2nd District (Central Long Island) covers western Suffolk County and the southeastern corner of Nassau County. The suburban spread from Nassau County and the New York City exodus is increasingly evident. The district remains largely single-family homes but has also experienced a growth in aviation and electronics industries. (No incumbent. Despite a strong run by Pike (D) in this area in 1960, in a protest vote against then Rep. Stuyvesant Wainwright (R), the area is expected, in normal years, to Lean Republican.)

The 3rd District (Long Island - North Shore of Nassau County) is a wealthy residential area including the town of North Hempstead and the City of Glen Cove. (Incumbent Derounian (R); Safe Republican.)

The 4th District (Long Island - Central Nassau County) is largely residential, the core of suburbia. The area is noted for its many large shopping centers. There is a growing book publishing industry. Parts of Hempstead and Oyster Bay are in the district. (No incumbent; Safe Republican.)

The 5th District (Long Island - South Nassau County) is largely residential and includes the famed Jones Beach. (Incumbent Becker; Safe Republican.)

New York City

QUEENS

The 6th District (Queens - Western Part) consists of predominantly middle to upper income residential areas with approximately equal Jewish and Christian populations. There are some German ethnic concentrations. The district includes the communities of Bayside, Queens Village and Jamaica. The Jamaica shopping center is New York City's third largest. The district has some light industry. (Incumbent Halpern (R); due primarily to his personal popularity, the district is rated Safe Republican as long as he runs; Doubtful to Leaning Republican with another GOP candidate .)

The 7th District (Queens - Southwest and Central Parts), an area of lower and middle income homes, has concentrations of retired pensioners and was formerly quite conservative politically. But Negroes are flooding into large housing developments in the district, changing the political complexion of the area. The district also has large Italian and German population concentrations. Idlewild Airport, scene of widespread and growing aviation service industries and offices, is located in the district. Ridgewood, Woodhaven and Jamaica are among the larger communities. (Incumbent Addabbo (D), who took the seat from GOP hands in 1960. The GOP has hopes of winning in 1962, possibly on Rockefeller's coattails, but the heavily Democratic Negro vote is expected to make the district Safe Democratic thereafter.)

The 8th District (Queens - Northern Part), predominantly Jewish in its ethnic composition, includes a few high income housing areas but mostly middle income housing. Many new apartment houses have been built in the area. Principal minority ethnic groups are Irish and Italian. Communities in the district include Flushing, Kew Garden Hills, Forest Hills, Corona and Fresh Meadows. (Incumbent Holtzman (D), who was elected Nov. 7, 1961 to be a New York Supreme Court Justice and will resign. Safe Democratic.)

The 9th District (Queens - Eastern Part) includes the highly industrialized (electronics, food processing) area of Long Island City. Primarily Irish and Italian in ethnic composition, the district has recently attracted increasing numbers of Negroes and Puerto Ricans. The income level is the lowest in the Queens, with large areas of public housing. (Incumbent Delaney (D); Safe Democratic.)

BROOKLYN, STATEN ISLAND

The 10th District (Brooklyn; Jamaica Bay Area) sprawls from Rockaway Beach on Jamaica Bay, actually a part of Queens, to within a few blocks of the East River in central Brooklyn. Low-income two-family houses and apartments predominate. The ethnic composition is primarily Jewish with some Italians and a Negro concentration in the Bedford Stuyvesant area. (Incumbent Celler (D); Safe Democratic.)

The 11th District (Brooklyn - Eastern Part) is a polyglot area ethnically, including Jewish, Negro, Puerto Rican, Polish, Italian and Irish groups. The large Brownsville housing project is predominantly Negro. The area includes thousands of small stores and service industries, particularly in the automotive field. (Incumbent Keogh (D); Safe Democratic.)

The 12th District (Brooklyn - Eastern Parkway Section) is predominantly middle income, though there are some higher priced apartment areas. The ethnic composition is primarily Jewish, Irish and Negro. (Incumbent Kelly (D); Safe Democratic.)

The 13th District (Brooklyn - Southwestern Part) includes Coney Island, Bensonhurst and Bath Beach. The district is primarily residential and heavily Jewish and Italian in composition. Some light service industries are located in the area. (Incumbent Multer (D); Safe Democratic.)

The 14th District (Brooklyn - Eastern Part) stretches along the East River and Upper New York Bay, connected in the center by a narrow strip of curbstone. The district includes the most heavily industrialized areas of Brooklyn. The commercial waterfront areas, the Bush Terminal warehouse and dock complex, the Fulton Street shopping area and the Brooklyn Navy Yard are all in the district. The population, mostly lower income, is predominantly Irish with some Italians and Puerto Ricans and a few Jews. (Incumbents Rooney (D) and Anfuso (D); they must fight it out for the seat in the '62 primary unless one bows out; Safe Democratic.)

The 15th District (Brooklyn - Bay Ridge, Brooklyn Heights) is a seahorse-shaped creation of the Republican redistricters designed to elect a GOP Congressman from Brooklyn. The district includes the choice residential areas of the borough including the Bay Ridge - Narrows-Shore Road area, overlooking the Narrows, and Brooklyn Heights, overlooking the Battery and South Manhattan. There are some high cost apartments but the district is generally middle income. (Incumbent Carey (D); former Rep. Francis E. Dorn (R 1953-61), whom Carey defeated in 1960, is expected to run in this district and win it in 1962. Party outlook: Safe Republican.)

The 16th District (Staten Island - Brooklyn Marine Park Area) covers all of Richmond County (Staten Island) and then jumps several miles of open water to take in a gerrymander-shaped sliver of land including Marine Park and extending into the heart of Brooklyn. The Marine Park area is mostly residential. Staten Island, also residential, is experiencing a real estate boom as work proceeds on a bridge over the Narrows. The island's population is heavily Italian with small homes predominant. (Incumbent Ray (R); Leans Republican.)

MANHATTAN

The 17th District (Manhattan - East Side) is perhaps the most elegant in the United States, encompassing the United Nations, the Empire State Building, most of New York's large hotels, Times Square, the modern skyscraper complex on Lexington, Park and Madison Avenues, and most of Greenwich Village. The garment industry is also located in the district, though the politically powerful garment workers generally live in other areas. The district's population is extremely mixed with high Jewish and Italian concentrations. Redistricting added Yorkville, a predominantly German area on the North end and Stuyvesant Town, a large moderately priced Metropolitan Life Insurance Co. housing area, on the South end. Income levels range from very high to very low, despite the district's reputation of being an exclusively "silk stocking" area. (Incumbent Lindsay (R); due to his personal popularity, the district will remain Safe Republican as long as he is the GOP candidate; with another Republican nominee, Leaning Republican.)

The 18th District (Manhattan - Harlem), on the Upper East Side, is a predominantly Negro low-income area with a large Puerto Rican minority and a few Italian areas. The district includes large numbers of subsidized fed-

eral, state and city public housing programs. There are a few blocks of higher income groups on the southern East Side section of the district. (Incumbents Powell (D) and Santangelo (D); so little of Santangelo's former district is included that he would have no hope of defeating Powell in a primary race. Safe Democratic.)

The 19th District (Manhattan - Lower East and West Sides) loops around the Battery covering most of the southern area of Manhattan. Included in the district are the Wall Street financial section, Chinatown, New York's principal docks, warehouses and major wholesale markets including the Washington Market, the city's chief grocery produce outlet. The lower East Side is predominantly low income with many Puerto Ricans and some Jewish, Irish and Italians. The West Side is heavily Jewish with some Irish and Greeks. There are considerable public housing areas in the district. The West Side is experiencing a population boom with new housing projects such as the new "Penn South." The Northern portion of the West Side includes some higher cost housing and the new Lincoln Square performing arts center. (Incumbent Farbstein (D); he may be challenged in the 1962 primary, however, either by Ryan (D) or Santangelo (D) who appear to have lost their own districts through redistricting. Ryan currently represents the Mid-West Side area of the new 19th. Safe Democratic.)

The 20th District (Manhattan - Upper West Side) stretches along the Hudson River from 86th Street to the northern tip of Manhattan. It is "West Side Story" territory. Several residential areas, including Morningside Heights (where Columbia University is located) and Washington Heights, are located in the district. The population is dense, in the middle and lower income brackets. The ethnic composition is primarily Jewish with some Italian and major Puerto Rican and Negro inroads. (Incumbents Zelenko (D) and Ryan (D); most observers believe Zelenko would have a better chance in a primary contest between the two. Safe Democratic.)

BRONX

The 21st District (Bronx - Southwestern Part) is predominantly Jewish but has large colonies of Irish, Italians and Puerto Ricans, almost exclusively in the lower income group. Numerous tenement houses are located in the southern end of the district. (Incumbent Healey; Safe Democratic.)

The 22nd District (Bronx - Southeastern Part) was once mainly Jewish but now has major Negro and Puerto Rican population inroads. The area is partly industrial and predominantly low income. There are numerous tenements; also several large public housing projects. (Incumbent Gilbert (D); Safe Democratic.)

The 23rd District (Bronx - Northwest Part) consists primarily of lower and middle income Irish, Jewish and Italian apartment and tenement dwellers. There are a few Negroes and Puerto Ricans in the Southern part of the district. (Incumbent Buckley (D), the borough Democratic leader. Safe Democratic.)

The 24th District (Bronx - Northeast Part) is heavily Italian with some Irish, German, Jewish and Polish groups. The income level is highest of any area in the Bronx. (Incumbent Fino (R), whose close attention to constituent problems has enabled him to build up steadily-increasing election time leads in a district that might otherwise go Democratic. Outlook: with Fino, Safe Republican; without Fino, Doubtful.)

Upstate

The 25th District (Westchester County; Yonkers; Peekskill) includes Putnam County and the western part of Westchester County. It has industrial areas in the southern section but tapers off into wealthy and middle income residential districts in other parts of Westchester. Putnam is a mixture of suburban and rural areas. (Incumbent Barry (R); Safe Republican.)

The 26th District (Westchester County; White Plains; New Rochelle), unchanged even in district number, includes eastern Westchester County along Long Island Sound and the Connecticut line. There is some industrial activity and a concentrated Negro population in the southern end. Light industry and several home offices of large corporations are located in other areas. Eastern sections are middle income to wealthy. (Incumbent Dooley (R); despite strong Democratic race in the district in '60 it continues to Lean Republican.)

The 27th District (Southeast; Newburgh), unchanged from the old 28th, extends from the Hudson River to the Catskill Mountains including the counties of Rockland, Orange, Sullivan and Delaware. It covers ex-urbanites in Rockland to dairy farmers in Delaware. Sullivan is the center of the "borsch circuit" summer resort area. Orange is a mixture of small industry and rural activities and includes the city of Newburgh, locale of the controversial relief plan. (Incumbent St. George (R); despite recent Democratic gains in local elections in Rockland and Orange, Safe Republican.)

The 28th District (Southeast; Poughkeepsie; Kingston), identical to the old 29th district except in number, consists of Dutchess (home and resting place of Franklin D. Roosevelt), Ulster, Columbia, Greene and Schoharie Counties. Industry (electronics, precision machine, cement making) dots the river valley, but the interior is a mixture of plain rural (Schoharie), large estates (Dutchess, Ulster) small communities and resort areas (Ulster, Greene), Dairying is important. (Incumbent Wharton (R); the district remained unyieldingly Republican, even under the hard campaigning of playwright Gore Vidal in 1960 and is expected to remain Safe Republican.)

The 29th District (Albany, Schenectady) includes the heavily industrial city of Schenectady, the state capital of Albany and 10 wards in the city of Troy in Rensselaer County. Schenectady and Troy, quickly affected by economic recessions, are politically sensitive areas. Albany, whose economy is stabilized by the state government (the largest employer), has the strongest Democratic machine in the state, controlled by the O'Connell family. There are substantial suburban areas around Albany and Schenectady which usually vote Republican. (Incumbents O'Brien (D) and Stratton (D). In the event of a primary contest between the two, the Albany machine vote could be counted on to elect O'Brien since there are only 19,532 registered Democrats in Schenectady, Stratton's home city, as compared to 78,149 registered Democrats in Albany, O'Brien's stronghold. Though the district may not always vote as strongly Democratic (63.3 percent) as it did in 1960, it can be counted on to remain Safe Democratic.)

The 30th District (Northeast; Troy) runs 173 miles from the southern line of Rensselaer County to the Canadian border in Clinton County. Shirt making, pharmaceutical research, life and casualty insurance headquarters, some textiles and lumbering (both declining

industries), dairy farming, a SAC installation (the Plattsburgh Air Base) and historic sites (the battle of Saratoga, a Revolutionary War turning point) are to be found in the district. The area teems with resort activity and contains the high area of the Adirondacks, vast wilderness areas, Lake Champlain and hundreds of mountain lakes. Major cities are Troy, Rensselaer, Glens Falls and Plattsburgh, as well as the internationally known village of Lake Placid, a summer and winter sports center, and storied Keene Valley. (Incumbent Carleton J. King (R); Safe Republican.)

The 31st District (Northwest; Watertown), same as the old 33rd District, runs along the Canadian border in Northern New York, including the spacious counties of Franklin, St. Lawrence, Lewis, Jefferson and Oswego. It contains the St. Lawrence Seaway and the New York-Ontario power project on the St. Lawrence River; is the main source of the state's milk supply; has ambitious plans for international port developments at Oswego and Ogdensburg; and has large aluminum plants at Massena. Watertown is a hub city. Resorts are big business, from forested Franklin and parts of St. Lawrence and Lewis to the Thousand Islands in the St. Lawrence River and along Lake Ontario. (Incumbent Kilburn (R); Safe Republican.)

The 32nd District (Central; Utica; Rome) is a combined industrial-rural area in central New York with unchanged lines from the old 34th District. Utica, the largest city, and Rome, both in Oneida County, have suffered from high unemployment due to the departure of textiles. The Griffiss Air Base at Rome is an important economic factor, and its threatened removal (in early 1961) produced economic chills and protests that reached the White House. Herkimer has precision products industries along the Mohawk River, big dairying elsewhere with cheese a major product. Madison is comfortably rural, stable and the site of Colgate University. (Incumbent Pirnie (R); despite his close call (50.8 percent) in his first race in 1958, the district appears to Lean Republican.)

The 33rd District (Central Southern Tier) is dominated by the tri-city area of Binghamton, Endicott and Johnson City offset by major urban concentrations in Elmira and Ithaca. Skilled and semi-skilled industries are in the district (shoes, IBM, typewriters, fire trucks) plus a number of small industries. All counties have growing suburban areas and considerable farming. Tioga County, completely rural and reputedly righteous, is painfully seeking to erase the memory of the notorious meeting of gangsters at Appalachin in 1957. (Incumbent Robison (R); Safe Republican.)

The 34th District (Central; Syracuse), same as the old 35th, consists of Onondaga County, dominated by the growing city of Syracuse. It has a big industrial complex, well diversified, and a growing suburbia. There is some agriculture on the fringes of the county. Syracuse University, in addition to football fame, has the Maxwell School of Government whose faculty and their associates frequently take a deep interest in campaigns. This has added glamour plus worries for the GOP but so far failed to unseat the Republican Congressman. (Incumbent Riehlman (R); Leans Republican.)

The 35th District (Central) is a classic gerrymander sprawling across the heart of New York State from the environs of Schenectady to the outskirts of Rochester. The sole common denominator of the district's eight counties is that they are all small. Montgomery, the gerrymander's head on the far east, is a perennially distressed area; economic conditions in others range from good to prosperous. Agriculture (dairying, cabbage and grapes for wine making) provides a major source of income. Auburn, Geneva, Canadiagua and Cortland have skilled industries (optics, rope making, utensils), while Amsterdam is a rug making center. The alluring Finger Lakes, Otsego Lake (the James Fenimore Cooper locale) and Cooperstown serve as tourist magnets. The area is rich in Indian and Revolutionary War history. (Incumbent Taber (R); local observers believe the district would go Democratic if Taber, now 81, were to try for another term. With another GOP nominee, the area would probably be Safe Republican).

The 36th District (West; Rochester), a minor variation from the old 38th, consists of the eastern half of both the city of Rochester and County of Monroe, plus Wayne County. It has varied industries (photographic, dental equipment, optics, men's clothing, auto parts) of skilled and semi-skilled labor character. The area is marked by growing suburbia and declining farming, chiefly in fruit and cash crops. (Incumbent Weis (R); district has shown growing Democratic strength, with GOP defeat in Rochester municipal elections in 1961 for first time in a quarter century. Wayne County, however, gives ground to the Democrats stubbornly. Overall estimate: Safe Republican.)

The 37th District (West; Rochester; Batavia) includes the western section of Rochester and Monroe County plus Orleans, Genesee, Wyoming and Livingston Counties. The industrial complex is chiefly in Monroe County and similar to that in the 36th District, but Batavia has some farm machinery, electronics and textile activity. The balance consists of small, rural communities with considerable fruit raising. (Incumbent Ostertag (R); Safe Republican).

The 38th District (Western Southern Tier) stretches 145 miles along the Pennsylvania border. Heavily rural, the district has pockets of industry in Jamestown (furniture), Corning (glass making) and oil production in Cattaraugus and Allegany Counties. Other major cities are Olean, Salamanca and Hornell. Grape growing for wine production is a major feature of the area's economy. (Incumbent Goodell (R); Safe Republican.)

The 39th District (Suburban Buffalo) forms a semicircle around most of the city of Buffalo in Erie County. There is heavy steel production in the Lackawanna area, but most of the district is largely suburban and rural residential with some farming. (Incumbent Pillion (R); Safe Republican.)

The 40th District (Northwest; Niagara) consists of Niagara County and some wards of Buffalo in Erie County. Chemical, aircraft and food processing are key industries. Fruit growing is a major agricultural activity. District is site of Niagara Falls and the new Niagara Power Project. (Incumbent Miller (R), the Republican National Chairman. Safe Republican.)

The 41st District (Buffalo) has steel plants and other heavy industries which react sharply to economic changes. Lake shipping, textiles and electronics are part of the industrial scene. A high portion of the population is of Polish extraction and the area is known for its high "ethnic consciousness." (Incumbent Dulski (D). Republican redistricters crowded all the heavily Democratic areas of Buffalo into this district, making it Safe Democratic.)

Political Notes

REP. RABAUT DEATH

Rep. Louis C. Rabaut (D Mich. 14th District - Detroit), 74, a member of Congress for 25 years (1935-47, 1949-61), died Nov. 12 after suffering a heart attack at a dinner in Hamtramck, Mich.

The prospective resignations of Reps. Frank Ikard (D Texas, 13th Dist.) (Weekly Report p. 1840) and Lester Holtzman (D N.Y., 6th Dist.) (see below) will reduce Democratic strength by another two seats.

Rabaut was chairman of the District of Columbia Subcommittee of the House Appropriations Committee. In this position he had considerable influence as to how federal appropriations were spent in the District of Columbia. He opposed cuts in public welfare, particularly those that affected children, while advocating less spending in other areas. He was also instrumental in setting aside plans to make birth control information available at city welfare clinics.

Nationally, Rabaut won fame as author of the amendment which inserted "under God" in the Pledge of Allegiance to the Flag of the United States.

Rabaut was born in Detroit on Dec. 5, 1886; attended parochial schools; and received an A.B. and law degree from Detroit College. His survivors include his wife and nine children, four of whom are in Roman Catholic religious orders. He also left 29 grandchildren.

The 14th District is Safe Democratic.

REP. HOLTZMAN TO BENCH

Rep. Lester Holtzman (D N.Y. 6th District - Queens), veteran of nine years in Congress and member of the House Judiciary Committee, Nov. 7 was elected to the New York State Supreme Court for the 10th District (Queens, Nassau, Richmond). He ran first in a field of six candidates for three vacancies on the court.

Holtzman's resignation from the House of Representatives is expected to be made effective before Dec. 31. His term on the court begins Jan. 1.

The 6th District is Safe Democratic.

NEDZI BIOGRAPHY

Rep.-elect Lucien N. Nedzi (D Mich. 1st District - Detroit, Hamtramck), 36, was born in Hamtramck, Mich., May 28, 1925, into a family of Polish extraction. His father was a tool and die worker. Nedzi attended public schools in Hamtramck and was graduated from the Hamtramck High School. He majored in economics at the University of Michigan, receiving his A.B. degree in 1948 and his law degree in 1951.

From July 1944 to August 1946 Nedzi served as an enlisted man with the Army Infantry, seeing action in the Philippines. As an Army reservist he was called back into duty during the Korean War but served only six months at that time (February to October 1951).

Nedzi became active in Democratic politics in 1951 and in January 1955 was appointed Wayne County Public Administrator. He was elected 1st District Democratic Chairman in January 1958.

An energetic group of 300 campaigners, many of whom were previous associates of Nedzi in the district Democratic organization, provided the driving force of his successful race against eight opponents in the Oct. 17, 1961 primary contest for the U.S. House seat vacated by the resignation of ex-Rep. Thaddeus M. Machrowicz (D). He won the Nov. 7 special election by defeating his GOP opponent, Walter Czarnecki, 33,690 votes to 5,729. (Weekly Report p. 1770, 1825)

Racial issues between Polish and Negro contenders for the nomination played a major role in the final days of the primary campaign. The Governor's Fair Campaign Practices Commission Oct. 27 condemned campaign materials appealing for voter support along ethnic lines, which had been circulated in behalf of primary candidates Russell S. Brown Jr., a Negro, and Lt. Gov. T. John Lesinski, who is of Polish extraction. Nedzi was not involved in any of the charges and Oct. 17 said, "There is no room in political campaigns for this kind of thing."

Nedzi is a partner in the law firm of Kaczmarek, Nedzi and Podgorski. He is married to the former Margaret Garvey, a teacher and dietician. They have three children, Lucien A., three years old; Bridget K., two; and Brendan T., seven months old. Nedzi is a Roman Catholic.

GONZALEZ BIOGRAPHY

Rep.-elect Henry B. Gonzalez (D Texas 20th District - San Antonio), 45, was born May 3, 1916 of Mexican-American parents in San Antonio, where he still makes his home. He attended public schools in San Antonio and was graduated from the Thomas Jefferson High School in San Antonio. He received a B.A. degree from the University of Texas and a law degree from St. Mary's University, where he also took graduate work in the social sciences.

During World War II, Gonzalez was a civilian cable and radio censor in military and naval intelligence. In 1946, he became chief probation officer for Bexar County and served in that office until 1950. He was a San Antonio City Councilman from 1953 to 1956. In 1956, he was first elected State Senator, an office he stills holds. Gonzalez made an unsuccessful try for the Democratic gubernatorial nomination in 1958 and ran sixth in the April 4 special U.S. Senate election, although he carried Bexar County. (Weekly Report p. 813)

He won the Nov. 4 special House election to fill the seat vacated by the resignation of ex-Rep. Paul J. Kilday (Weekly Report p. 1670) by defeating John W. Goode Jr. (R) and three minor candidates. Gonzalez received 52,855 votes to Goode's 42,553. (Weekly Report p. 1827)

Gonzalez, a flamboyant and free-wheeling campaigner, made a strong appeal during his House campaign for the support of Mexican Americans, who make up a considerable part of San Antonio's population. Mexican actor Cantinflas and a Mexican Senator campaigned for Gonzalez in the last three days before the election. This tactic drew GOP charges that Gonzalez had injected "racism" and "national origins" into the contest.

Gonzalez maintains a business consultation and translation service in San Antonio and is also a member of the board of directors of the Americans for Democratic Action. His wife is the former Bertha Cuellar. They have eight children: Henry, 20 years old; Rosemary, 18; Charles, 16; Bertha, 14; Stephen, 12; Genevieve, 10; Francis, 7; and Anna Maria, 3. Gonzalez is a Roman Catholic.

CONGRESSIONAL QUARTERLY

The Week In Congress

Speakership

The death of Sam Rayburn, Speaker and Representative longer than any man in the history of the House of Representatives, has both aroused speculation on which Democrat will succeed him in the Chair when Congress meets Jan. 10, and stimulated interest in the Speakership as a high office in the American government. This CQ Weekly Report contains an eight-page history of the office, from the first Speaker, Frederick A.C. Muhlenberg of Pennyslvania, through "Czars" Reed and Cannon, the rise of the Rules Committee, the "Revolution" of 1910 and the developments that have made the Speakership the second most powerful elective office in the United States. (p. 1847)

Civil Rights

The Civil Rights Commission Nov. 17 issued its fifth and final report for 1961. Titled "Justice," the report covered and made recommendations on police brutality, police connivance in private violence, exclusion of Negroes from juries, and the problems caused by insufficient remedies. It also contained a brief survey of the civil rights problems of Indians. The report ended with an over-all review of all five reports and made an appeal to President Kennedy to use the leadership and prestige of his office in support of equal protection for all. (Page 1860)

Trustbusting

Antitrust actions taken by the Kennedy Administration have contributed to fears the New Frontier is "anti-business." A Fact Sheet examines the Administration's antitrust record to date, discusses the outlook, and uncovers some criticisms from antitrust students and lawyers that the Administration's actions in this field, far from being anti-business, are not vigorous enough. (Page 1855)

Around the Capitol

Rep. Louis C. Rabaut (D Mich.) died Nov. 12; Rep. Lester Holtzman (D N.Y.) Nov. 7 won election to the New York Supreme court, will resign soon from Congress. Details of these developments, together with biographies of newly-elected Congressmen from Michigan and Texas. (Page 1875) President Kennedy Nov. 10 appointed a board of experts to study the Government's method of determining unemployment figures.... Agriculture Secretary Freeman Nov. 13 predicted a 9 percent increase in farm income over 1960.... The Commerce Department revealed a rise in the balance-of-payments deficit to more than $3 billion annually. (Page 1854)

New York Redistricting

The Republican-controlled New York Legislature Nov. 10 debated and gave quick approval to a Congressional redistricting bill observers believe will result in a Democratic loss of six and a Republican gain of four House seats. Gov. Nelson A. Rockefeller (R) quickly signed the bill without making comment or allowing photographers to record the signing. The measure aroused Democratic cries of "gerrymander," "political murder," and "Rockymander." New York Mayor Robert F. Wagner announced he would initiate a court suit to invalidate it under the 14th Amendment.

The bill reduced New York from 43 to 41 districts in accordance with the 1960 Census apportionment. The Republican District drawers, although keeping within a self-imposed 15 percent maximum population variation in plotting the new districts, were able to conceive a plan expected to change the delegation from its current 22-21 Democratic-favored balance to a 25-16 balance in favor of the GOP.

Congressional Quarterly's story reviews legislative and political debate over the measure, shows maps and lists populations of old and new districts and includes a general description and political outlook for each of the 41 new districts. (Page 1868)

Power Fight

The public vs. private problem is going to occupy much time in Congressional Committees next year and may be a hot election-year issue. A CQ Fact Sheet cites the 1961 actions -- one favoring public power advocates; another, private power interests -- and reviews the outlook for 1962. (Page 1862)